

Settlement of Traffic Crimes Based on Restorative Justice (Study of Decision Number 125/Pid.Sus/2024/Pn Pso)

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Abstract. *Traffic crimes are one of the most common forms of legal violations in everyday life. With increasing mobility and the growth of motorized vehicles, traffic violations have become an inevitable phenomenon in almost every city in Indonesia. These violations include various forms, ranging from administrative violations to criminal acts such as driving without a license, running red lights, and traffic accidents due to negligence. In many cases, traffic crimes not only harm the state and other road users, but can also result in injuries and even death. Law Number 22 of 2009 concerning Traffic and Road Transportation has regulated criminal sanctions for traffic violators. However, the law enforcement approach used so far tends to be repressive and retributive. The legal process for traffic violations is generally pursued through formal litigation in court, which in practice requires considerable time, effort, and resources. Litigation often results in criminal penalties, even in cases that could actually be resolved through deliberation between the perpetrator and the victim. This raises serious issues regarding the effectiveness and efficiency of the criminal justice system in handling cases that actually have the urgency of social recovery rather than mere punishment. The application of formal and bureaucratic legal processes to traffic crimes, which often involve elements of negligence or accident, often leads to dissatisfaction among perpetrators, victims, and the wider community. The lengthy and convoluted legal process, which generally involves formal litigation in court, often feels burdensome for the parties involved. While perpetrators may feel that their actions were not malicious, victims feel that legal resolutions that focus solely on the criminal aspect have not fully repaired the losses they have experienced, and the wider community feels that this protracted justice system does not fully resolve the problem. Criminal law that focuses on sanctions and punishment does not always meet the expectations of a more humane and contextual justice in each criminal case. Most traffic crimes, especially those that occur due to negligence or minor errors, are actually better resolved through an approach that is oriented not only toward punishment but also toward restoring social relationships damaged by the incident. A criminal justice system that emphasizes punishment often neglects broader humanitarian aspects, such as emotional and social recovery between perpetrators and victims. In certain cases, both victims and perpetrators have reached amicable agreements, yet the legal process continues without considering these outcomes. This demonstrates a disparity between the goals of the criminal justice system, which should be oriented towards achieving comprehensive justice for victims, perpetrators, and society, and the reality on the ground, which prioritizes proving guilt and imposing*

punishment. In many cases, the primary focus of the conventional justice system is on the punishment imposed on perpetrators as a form of deterrence, without considering the importance of victim protection and recovery, as well as the perpetrator's reintegration into society.

Keywords: *Criminal Acts; Restorative Justice; Traffic.*

1.Introduction

Traffic crimes are one of the most common forms of legal violations that occur in everyday life¹. As mobility and the growth of motorized vehicles increase, traffic violations have become an inevitable phenomenon in almost every city in Indonesia². These violations include various forms, ranging from administrative violations to criminal acts such as driving without a license, running red lights, and traffic accidents due to negligence³. In many cases, traffic crimes not only harm the state and other road users, but can also cause injuries and even death⁴.

Law Number 22 of 2009 concerning Traffic and Road Transportation regulates criminal sanctions for traffic violators⁵. However, the law enforcement approach that has been used so far tends to be repressive and retributive⁶. The legal process for traffic violations is generally pursued through formal litigation in court, which in practice requires a considerable amount of time, energy and resources⁷. Litigation often results in criminal charges, even in cases that could actually be resolved through deliberation between the perpetrator and the victim⁸. This raises serious problems regarding the effectiveness and efficiency of the criminal justice system in handling cases that actually have the urgency of social recovery rather than mere punishment⁹.

The application of formal and bureaucratic legal processes for traffic crimes, which often involve elements of negligence or unintentional acts, often gives rise to dissatisfaction, both from the perpetrators, victims and the wider community¹⁰. The lengthy and tortuous legal process, which generally involves formal litigation in court, often feels burdensome for the parties involved. While the perpetrator may believe their actions were not malicious, the victim feels that a legal resolution focused solely on the criminal aspect has not fully redressed the harm they have suffered, and the wider community feels that this protracted justice system fails to fully resolve the problem. Criminal law, which focuses on sanctions and punishment, does not always meet the expectations of a more humane and contextualized justice in every criminal case. Most traffic crimes, especially those resulting from negligence or minor errors, are actually better resolved through an approach that focuses not only on punishment but also on restoring the social relationships damaged by the incident.

A criminal justice system that emphasizes punishment often neglects broader humanitarian aspects, such as the emotional and social recovery of the perpetrator and victim. In some cases, both the victim and perpetrator have reached amicable agreements, yet the legal process continues without considering these outcomes. This demonstrates the disparity between the goals of the criminal justice system, which should be oriented toward achieving comprehensive justice for victims, perpetrators, and society, and the reality on the ground, which prioritizes proving guilt and imposing punishment. In many cases, the primary focus of the conventional justice system is on the punishment imposed on the perpetrator as a form of deterrence, without considering the importance of victim protection and recovery, as well as the perpetrator's reintegration into society.

2. Research Methods

This research uses a combined method of normative and empirical juridical approaches to gain a comprehensive understanding of the application of restorative justice in resolving traffic crimes. This method allows researchers to examine not only the normative aspects of the legal system but also the empirical realities that develop in law enforcement practices.

The types of research used are normative and empirical juridical:

a. Normative juridical research.

Normative juridical research is legal research that focuses on texts and norms as the primary object of study. In this approach, law is understood as a normative system, a hierarchically and logically structured system of rules. Therefore, analysis is conducted by reading, interpreting, and constructing the meaning of norms in legislation, court decisions, doctrines (scholarly opinions), and other relevant written sources.¹¹ The main objective is to obtain precise operational principles, principles and rules to explain the scope, limits and conditions for the application of restorative justice in traffic violation cases (which are generally of a culpa nature), without leaving the corridor of due process of law and سيادة القانون (*rule of law*).¹²

b. Empirical legal research

Empirical legal research is an approach in legal science that not only examines legal norms as written texts but also examines them in the social reality of how they are implemented in society. This research focuses on how the law functions in practice, whether the norms contained in the law are actually implemented, and the extent to which these regulations impact social life. Thus, empirical legal research positions law not merely as law on the books, but as law in action, observable through the behavior of law enforcement officials and the wider community.¹³

3. Results and Discussion

3.1. Application of Restorative Justice Principles in Resolving Traffic Crimes Based on Decision Number 125/Pid.Sus/2024/PN Pso

The application of restorative justice principles in traffic crime cases is gaining increasing relevance because traffic accidents generally arise from negligence alone, not from the perpetrator's malicious intent. This approach emphasizes the importance of reparation for victims and strengthening the perpetrator's moral responsibility, so that case resolution does not stop at formal, retributive punishment, but also opens up space for more humane,

¹¹ Soekanto, S., & Mamudji, S. (2019). *Penelitian hukum normatif: Suatu tinjauan singkat* (Cet. ke-18). Rajawali Pers.

¹² Marzuki, P. M. (2017). *Penelitian hukum* (Edisi Revisi). Kencana.

¹³ Soekanto, S. (1986). *Pengantar penelitian hukum*. Jakarta: UI Press.

Master of Law, UNISSULA

substantive justice.¹⁴ Within this framework, Poso District Court Decision Number 125/Pid.Sus/2024/PN Pso is an important example of how the principle of restorative justice is integrated into criminal justice practices in Indonesia.¹⁵

In its considerations, the panel of judges stated that the traffic accident that befell Silfan and M. Fitra Ramadhan was purely due to the negligence (*culpa*) of the defendant Niko Friando, not intentional (*dolus*).¹⁶ The incident occurred on Saturday evening, January 6, 2024, at around 7:30 PM WITA (Central Indonesian Time), when the victim, Silfan, riding a Yamaha Jupiter Z1, intended to make a U-turn by using his right turn signal and ensuring traffic conditions were clear. Simultaneously, Niko, riding a Honda CRF DN 5214 UF at high speed, approximately 80–90 km/h, while riding pillion with Fitra, took the opposite lane to overtake without giving proper signals. The remaining distance of less than five meters left him no room to brake or honk, so the collision was unavoidable. The violent impact sent Silfan flying with broken bones and serious lacerations, while Fitra suffered a broken collarbone and abrasions; while Niko only suffered minor injuries. The victim was immediately evacuated to Kolonodale Regional Hospital, where a post-mortem examination later confirmed Silfan's serious injuries.

The legal process progressed from the investigation to the trial. The prosecutor charged Niko with Article 310 paragraph (3) of Law Number 22 of 2009 concerning Traffic and Road Transportation, with subsidiary charges of Article 310 paragraph (2), for his negligence which caused serious injury to another person.¹⁷ During the trial, witness testimony and evidence, including two motorcycles, vehicle registration certificates, a Class C driver's license, and a medical examination, confirmed the evidence of negligence. Niko himself admitted his actions, expressed remorse, behaved politely, and reconciled with the victim's family. This is an important aspect of the restorative justice values considered by the panel of judges, while upholding the authority of the law through sentencing. On May 27, 2024, the Poso District Court sentenced Niko to one year and four months in prison, with an order to remain in detention, and ordered the return of evidence to the appropriate parties.

This case clearly illustrates how negligence can lead to criminal prosecution, yet at the same time, the perpetrator's reconciliation and admission of guilt were also considered in the judge's deliberations. This is a balance between the retributive aspect, which maintains legal authority, and the restorative approach, which emphasizes social recovery. Thus, Decision Number 125/Pid.Sus/2024/PN Pso can be used as a reference, indicating that the resolution of traffic crimes due to negligence should prioritize the principles of restorative justice, which provide space for substantive, humane, and recovery-oriented justice.

The principles of restorative justice are reflected in the peace agreement reached by the perpetrator and victim. This agreement includes compensation for losses, a sincere apology,

¹⁴ Zehr, H. (2002). *The little book of restorative justice*. Intercourse, PA: Good Books.

¹⁵ Muladi. (1995). *Kapita selekta sistem peradilan pidana*. Semarang: Badan Penerbit UNDIP.

¹⁶ Arief, B. N. (2008). *Bunga rampai kebijakan hukum pidana*. Jakarta: Kencana.

¹⁷ Undang-Undang Nomor 22 Tahun 2009 tentang Lalu Lintas dan Angkutan Jalan, Lembaran Negara Republik Indonesia Tahun 2009 Nomor 96.

Master of Law, UNISSULA

and the perpetrator's commitment to be more careful in the future. The judge deemed the peace agreement to fulfill the sense of justice (al-'adalah), as it restored the victim's rights while allowing the perpetrator to take responsibility with dignity.

Furthermore, the perpetrator's admission of guilt and deep remorse were also important considerations. This aligns with the essence of restorative justice, which emphasizes the perpetrator's moral awareness and the restoration of social relations disrupted by the crime. Sri Endah Wahyuningsih emphasized that these moral and social aspects are more essential than a mere formal verdict.

3.2. Supporting and Inhibiting Factors in the Implementation of Restorative Justice in Traffic Crimes

The application of restorative justice in traffic crimes is influenced by various factors that influence its success or failure. One of the main supporting factors is the existence of a clear legal basis. Regulations such as National Police Regulation No. 8 of 2021 concerning Handling Criminal Acts Based on Restorative Justice and Attorney General Circular No. 15 of 2020 provide formal legitimacy for law enforcement officials to use the peace process in certain cases.¹⁸ With this normative basis, authorities have a strong legal basis for implementing a restorative approach.

In addition to regulatory factors, socio-cultural factors in Indonesian society also play a significant role. The culture of deliberation and a spirit of kinship make the community more receptive to peaceful resolutions than to rigid formal judicial processes.¹⁹ The societal tendency to resolve conflicts through peace mechanisms has long been recognized in customary and Islamic legal traditions in Indonesia, enabling the application of restorative justice to find a solid footing in social reality.

From the victim's perspective, psychological aspects are also important. Many traffic accident victims prefer compensation, recognition, or an apology rather than a prison sentence for the perpetrator.²⁰ This is understandable, as victims' needs extend beyond formal justice to emotional recovery. Therefore, peace mechanisms that allow perpetrators to acknowledge their mistakes and take direct responsibility are more likely to fulfill a sense of justice (al-'adālah).

Sri Endah Wahyuningsih emphasized that the success of restorative justice is greatly influenced by the paradigm of law enforcement officials.²¹ According to him, if law enforcement officials understand that justice is not only procedural but also substantive, the

¹⁸ Kepolisian Negara Republik Indonesia. (2021). *Peraturan Kapolri Nomor 8 Tahun 2021 tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif*.

¹⁹ Latif, H. (2021). *Restorative Justice dalam Hukum Pidana Islam dan Penerapannya di Indonesia*. Malang: Setara Press.

²⁰ Zehr, H. (2002). *The Little Book of Restorative Justice*. Intercourse, PA: Good Books.

²¹ Wahyuningsih, S. E. (2020). Keadilan Restoratif dalam Perspektif Hukum Progresif. *Magnum Opus*, 2(1), 10–17.

peace process can be carried out more effectively. In other words, legal awareness among law enforcement officials is a key factor in successful implementation.

Another equally important factor is the role of judges as justice facilitators. In many cases, judges have the authority to encourage parties to reach a peace agreement. The judge's active role in fostering open dialogue between perpetrators and victims is crucial in upholding restorative justice.

From an institutional perspective, institutional support also influences the success of restorative justice implementation. Prosecutors and police who consistently implement relevant regulations will provide clear direction for practice on the ground. This policy consistency is crucial to avoid disparities in law enforcement that could undermine public trust.

Despite these supporting factors, obstacles cannot be ignored. The first obstacle is the persistent retributive justice paradigm among some law enforcement officials. Many officials still adhere to the principle that every violation of the law must result in imprisonment, thus viewing peaceful approaches as a form of legal leniency.

Another obstacle arises from the community itself. Not all victims or their families understand the concept of restorative justice, sometimes leading them to doubt the legitimacy of peaceful resolutions. This lack of public understanding can lead to the perception that peaceful resolutions are a form of intervention or compromise on justice.

Furthermore, limited human resources are also a barrier. The penal mediation process requires competent mediators or facilitators. However, the number of mediators who understand mediation techniques in criminal cases is still very limited. As a result, mediation often fails to run optimally.

Gunarto added that legal and political factors also play a role. According to him, if law enforcement officials remain focused on quantitative targets, such as the number of cases tried, the implementation of restorative justice will struggle to develop. Therefore, a shift in policy orientation is needed so that indicators of success are not solely measured by the number of verdicts, but also by the quality of justice achieved.

The UNISSULA Magnum Opus Journal notes that restorative justice can only be successful with active community participation.²² Without community involvement, peacemaking remains merely formal and fails to address the root of social problems. Therefore, the concept of restorative justice needs to be further disseminated to the wider community.

Anis Mashdurohatun, in his writing, asserts that the local wisdom of Indonesian society, which values deliberation and peace (*ṣulḥ*), can serve as a philosophical foundation for the

²² Wahyuningsih, S. E. (2020). Keadilan Restoratif dalam Perspektif Hukum Progresif. *Magnum Opus*, 2(1), 10–17.

Master of Law, UNISSULA

implementation of restorative justice.²³ Obstacles actually arise when law enforcement officials fail to accommodate these local values in judicial practice.

3.3. Legal Implications of the Application of Restorative Justice to the Conventional Criminal Justice System

The application of restorative justice in traffic crime cases has fundamental implications for the construction of the conventional criminal justice system in Indonesia. From a legal substantive perspective, this paradigm broadens the function of criminal law, which has tended to emphasize repressive aspects. Through a restorative approach, criminal law is understood not only as an instrument of punishment but also as a means of reconciliation and social restoration.

The legal implications of the application of restorative justice not only demonstrate the courage of Indonesian criminal law to move beyond the classical paradigm that emphasizes formal certainty, but also mark the birth of a new orientation more grounded in substantive justice. This shift in orientation suggests that the law should not be limited to rigid procedures or legality, but must instead address deeper social needs: namely, creating a balance between legal certainty, justice, and utility.

In this context, Sri Endah Wahyuningsih's perspective is relevant. He emphasized the urgency of the human-centered law paradigm as a basis for criminal law reform.²⁴ This paradigm places humans at the center of the law enforcement process, so that every regulation, policy, and judicial practice must always consider human dignity. This aligns with the principle of the progressive rule of law, which rejects the mechanistic view of criminal law as merely an instrument of punishment.

The human-centered law approach also broadens the meaning of criminal justice. Justice is no longer understood solely as providing appropriate retribution to perpetrators of criminal acts, but rather as an effort to balance the interests of various parties: victims, society, and perpetrators. Thus, punishment is no longer a sole objective but rather part of a broader mechanism for restoring social harmony.

Furthermore, the implications of this shift in orientation can strengthen the legitimacy of Indonesian criminal law in the eyes of the public. By prioritizing substantive values, criminal law can deliver justice with compassion, namely justice that is not limited to humanity but instead provides space for reconciliation, forgiveness, and the improvement of social relations. This model of justice will better meet the demands of modern society, which increasingly emphasizes the values of participation, dialogue, and humanity in resolving criminal cases.

²³ Mashdurohaturun, A. (2019). Restorative Justice sebagai Instrumen Pembaruan Hukum Pidana. *Sultan Agung Law Review*, 1(2), 45–59.

²⁴ Wahyuningsih, S. E. (2018). *Kebijakan Hukum Pidana dalam Perspektif Human Centered Law*. Semarang: Badan Penerbit UNDIP.

Master of Law, UNISSULA

From a procedural perspective, restorative justice encourages a shift in the role of law enforcement officials. Police, prosecutors, and judges are no longer positioned solely as guardians of the law, but also as mediators and peace facilitators.²⁵ Anis Mashdurohatun emphasized that the new paradigm of criminal law is participatory and dialogical, requiring officers to foster healthy communication between perpetrators and victims, rather than simply following normative procedures.

This undoubtedly implies a redefinition of the function of law enforcement officers. While previously their work focused more on proving guilt and imposing punishment, they are now also responsible for ensuring restitution for victims and the moral conscience of perpetrators. In practice, law enforcement officers must be able to fulfill their dual role as both enforcers of norms and facilitators of peaceful resolutions.

From a structural perspective, the implementation of restorative justice has a significant impact on the caseload in courts and correctional institutions. Many minor cases can be resolved through penal mediation without having to go to trial, allowing the judiciary to focus more on serious cases that truly require judicial intervention.

Gunarto's (UNISSULA) perspective provides a unique philosophical dimension to interpreting the implementation of restorative justice in Indonesia. According to him, law should not be understood partially as a mere rigid normative instrument, but rather within the broader framework of Pancasila legal politics. This legal politics positions law as a means to balance three fundamental values: certainty (*rechtszekerheid*), justice (*العدالة*), and utility (*doelmatigheid*). With this balance, law can exist not only as a formal rule but also as a social instrument serving the public good.

In traffic cases, the implementation of peaceful resolution through restorative justice can be understood as an embodiment of the fundamental values of Pancasila. This mechanism demonstrates that justice does not always have to come in the form of repressive punishment but can also be achieved through legitimate and dignified peace. With this approach, the legal system maintains its formal authority because it is based on positive rules, while simultaneously fulfilling the victim's sense of justice (*al-'adalah*) and providing social utility to the wider community. Thus, restorative justice does not diminish the meaning of law, but rather broadens the horizons of justice by emphasizing the dimensions of restoration and reconciliation.

4. Conclusion

The application of restorative justice (RJ) to traffic cases characterized by negligence is legitimate, relevant, and proportionate. Cases stemming from *culpa* with concrete remedial measures, immediate assistance, coverage of medical expenses, and written settlements meet the eligibility criteria for RJ. The panel of judges continues to uphold the rule of law through measured sentencing, while using settlements as a basis for mitigating

²⁵ Priyatno, D., & Wahyuningsih, S. E. (2022). Restorative Justice dalam Kasus Tindak Pidana Lalu Lintas. *Khaira Ummah*, 7(1), 12–20.

considerations. This configuration demonstrates a balance between legal certainty (rechtszekerheid), justice (al-'adālah), and expediency (doelmatigheid). Determining factors for the success of RJ include: an adequate normative foundation, a culture of deliberation and ṣulḥ in society, the victim's need for material-emotional recovery, and the active role of officials (investigators, prosecutors, and judges) as dialogue facilitators. Obstacles still encountered include the residual retributive paradigm, unequal public literacy, limited trained penal mediators, variations in technical implementation across regions, and potential imbalances in the parties' bargaining power. Legally, RJ encourages the repositioning of the criminal justice system. Law enforcement is no longer solely focused on punishment, but rather shifts to substantive justice, with the goal of restoring social relations. The role of law enforcement is being redefined from guardian of law to guardian of justice, ensuring dialogue, voluntariness, verification of recovery, and tiered oversight to prevent RJ from shifting into a private settlement that erodes the authority of the law. The scientific and practical contributions of this research are evident in the integration of legal substance (Law 22/2009 and RJ guidelines), enforcement structures (coordination between the police, prosecutors, and the judiciary), and legal culture (family values/deliberation). This pattern can be replicated for low- to medium-risk traffic cases as long as the boundaries of legality and accountability are strictly maintained.

5. References

Journals:

- Mashdurohatun, A. (2019). Restorative Justice sebagai Instrumen Pembaruan Hukum Pidana. *Sultan Agung Law Review*, 1(2), 45–59.
- Priyatno, D., & Wahyuningsih, S. E. (2022). Restorative Justice dalam Kasus Tindak Pidana Lalu Lintas. *Khaira Ummah*, 7(1), 12–20.
- Wahyuningsih, S. E. (2020). Keadilan Restoratif dalam Perspektif Hukum Progresif. *Magnum Opus*, 2(1), 10–17.

Books:

- Arief, B. N. (2008). Bunga rampai kebijakan hukum pidana. Jakarta: Kencana.
- Barda Nawawi Arief. (2010). Sistem Peradilan Pidana di Indonesia: Perspektif Teori dan Praktik. Jakarta: Kencana
- Haryanto, S. (2017). Peradilan Pidana dan Pemulihan Sosial dalam Penyelesaian Tindak Pidana Lalu Lintas. Yogyakarta: Universitas Gadjah Mada Press.
- Huda, A. (2016). Aspek Hukum Pidana Lalu Lintas di Indonesia. Jakarta: RajaGrafindo Persada.
- Latif, H. (2021). Restorative Justice dalam Hukum Pidana Islam dan Penerapannya di Indonesia. Malang: Setara Press.
- Marzuki, P. M. (2017). Penelitian hukum (Edisi Revisi). Kencana.
- Muladi. (1995). Kapita selekta sistem peradilan pidana. Semarang: Badan Penerbit UNDIP.

Master of Law, UNISSULA

Salim, H. (2013). *Restorative Justice dalam Sistem Hukum Pidana Indonesia*. Jakarta: Prenadamedia Group.

Saputra, R. (2021). *Pemidanaan dalam Hukum Pidana Lalu Lintas dan Penerapan Restorative Justice*. Bandung: Refika Aditama.

Siregar, D. (2015). *Restorative Justice: Pendekatan Alternatif dalam Penyelesaian Masalah Hukum*. Medan: USU Press.

Slamet, M. (2019). *Penegakan Hukum Lalu Lintas di Indonesia dan Permasalahannya*. Surabaya: Airlangga University Press.

Soekanto, S. (1986). *Pengantar penelitian hukum*. Jakarta: UI Press.

Soekanto, S., & Mamudji, S. (2019). *Penelitian hukum normatif: Suatu tinjauan singkat (Cet. ke-18)*. Rajawali Pers.

Suyanto, I. (2018). *Penyelesaian Sengketa Lalu Lintas dengan Pendekatan Restorative Justice di Indonesia*. Malang: UMM Press.

Wahyuningsih, S. E. (2018). *Kebijakan Hukum Pidana dalam Perspektif Human Centered Law*. Semarang: Badan Penerbit UNDIP.

Zehr, H. (2002). *The Little Book of Restorative Justice*. Intercourse, PA: Good Books.

Regulation:

Indonesian National Police. (2021). *Regulation of the Chief of Police Number 8 of 2021 concerning Handling Criminal Acts Based on Restorative Justice*.

Law Number 22 of 2009 concerning Road Traffic and Transportation, State Gazette of the Republic of Indonesia 2009 Number 96.

Law of the Republic of Indonesia Number 22 of 2009 concerning Road Traffic and Transportation. (2009).