

Implementation of Restorative Justice for Traffic Crimes in which Victims Die What is Done by Minors (Research at Pekalongan City Police)

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Abstract. *This study discusses the application of Restorative Justice to criminal acts of traffic accidents that cause fatalities and are committed by minors at the Pekalongan City Police. The purpose of the study was to determine the application, obstacles, and how to overcome them. The method used is a sociological legal approach, with data collection through interviews and literature studies, as well as qualitative data analysis. The results of the study indicate that the application of Restorative Justice is carried out through diversion, namely the transfer of the settlement of children's cases from the criminal justice process to the non-judicial process, in accordance with Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. The principle of Restorative Justice emphasizes the restoration of victim losses and reintegration between victims, perpetrators, and the community, in contrast to the Retributive Justice paradigm which focuses on punishment. Some of the obstacles faced include deadlock in determining compensation, difficulty in presenting the families of the perpetrators and victims who live in different areas, and the low level of public understanding of restorative justice. To overcome these obstacles, it is necessary to facilitate meetings between the relevant parties, mentoring by community counselors, and increasing the understanding and professionalism of the Police.*

Keywords: *Children; Justice; Restorative.*

1. Introduction

Traffic accidents are one of the major problems in the transportation system that not only cause material losses, but also threaten human lives. According to Law Number 22 of 2009 concerning Traffic and Road Transportation, a traffic accident is an event on the road that occurs unexpectedly and unintentionally, involving vehicles and humans, resulting in physical, material, or even life losses.

In Pekalongan City, based on data from the Traffic Unit (Satlantas) of the Pekalongan City Police in 2024, there have been 47 traffic accidents since the beginning of the year until April, with 14 fatalities. Although the number of cases decreased compared to the same period in the previous year, the death toll actually increased. This shows the need for a more comprehensive approach to handling these cases, especially those involving minors as perpetrators.

When minors are involved in traffic crimes that result in death, traditional legal processes are often considered inappropriate. Imprisoning children has the potential to damage their mental, physical, and psychological development, so a more humane alternative solution is needed. Restorative justice offers an approach that emphasizes restoring relationships between perpetrators, victims, and the community, rather than simply imposing punishment.

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System has regulated that diversion must be applied in cases involving children as perpetrators of crimes. Diversion aims to prevent children from the formal justice process and encourage out-of-court settlements through dialogue between perpetrators, victims, and other related parties. This study aims to explore how restorative justice is applied to traffic accident cases involving minors at the Pekalongan City Police, what obstacles arise, and how these obstacles can be overcome.

2. Research methods

The study uses a sociological legal approach, which combines legal analysis with social observation. Primary data were collected through in-depth interviews with police officers, victims, and perpetrators' families. Secondary data came from literature studies, including laws and scientific literature. The analysis was conducted qualitatively to understand the relationship between the implementation of restorative justice and the obstacles that arise in the field.

3. Results and Discussion

3.1. The Concept of Restorative Justice in the Context of Child Cases

Restorative justice has basic principles in the form of recovery, perpetrator responsibility, and community participation in resolving criminal cases. In the context of children, restorative justice creates a more humane conflict resolution space than the traditional criminal justice system. This process takes into account the rights of children as individuals who are still in the development stage, as regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

The application of restorative justice includes deliberation to reach an agreement regarding the form of compensation or action that must be taken by the perpetrator to restore the victim's losses. In the context of traffic accidents, this approach focuses not only on financial compensation but also on restoring social relations between the perpetrator, victim, and community.

3.2. Implementation of Restorative Justice at Pekalongan City Police

Pekalongan City Police is one of the institutions that actively adopts the restorative justice approach, especially in cases of minors. The implementation process involves the following stages:

1. **Implementation of Diversion in the Investigation Process:**The child of the perpetrator involved in a traffic accident with a fatality undergoes a diversion process as a substitute for the formal legal process. This aims to divert the resolution of the case outside the formal court system through deliberations involving the victim, the perpetrator, the families of both parties, and the police.
2. **Determination of Compensation and Restorative Actions:**The deliberations resulted in agreements involving financial compensation to the victim's family, a formal apology, and a promise to improve the perpetrator's behavior. In some cases, the agreements also included the perpetrator's participation in social activities aimed at improving relations with the community.
3. **Mentoring by Community Guidance:**The child perpetrator is accompanied by a Community Guidance Officer to ensure that his/her rights are maintained during the settlement process. This assistance also helps prepare the child for post-case social reintegration.
4. **Monitoring of Implementation of the Agreement:**Pekalongan City Police supervise the implementation of the agreement, especially in terms of providing financial compensation and corrective actions that have been mutually agreed upon.

3.3. Obstacles in the Implementation of Restorative Justice

a. Deadlock in NegotiationDeadlock often occurs in the compensation negotiation process between the victim and the perpetrator's family. This is usually caused by:

- Differences in perception about the amount of appropriate compensation.
- The limited financial ability of the perpetrator's family to meet the victim's demands.

b. Difficulty in Presenting Related PartiesMany families of perpetrators or victims live outside the jurisdiction or do not have a clear address, so the deliberation process is hampered.

c. Low Public Understanding of Restorative JusticeThe concept of restorative justice is still foreign to most people. Many consider this approach to be "beneficial" to the perpetrator and does not provide a deterrent effect.

d. Long Waiting TimeThe process from reaching an agreement to payment of compensation often takes a long time, which has the potential to worsen the relationship between the perpetrator and the victim.

e. The Image of the Police in the Eyes of the PublicSome people view restorative justice as a compromise that can weaken the firmness of the law. This poses a challenge for the Police in building public trust.

3.4. Solutions to Overcome Obstacles

Pekalongan City Police have implemented several strategic steps to overcome these obstacles, including:

1. **Facilitate Negotiations with a Personal Approach:** Investigators often hold separate meetings with the families of the perpetrator and the victim before joint deliberations. This helps reduce tensions and speeds up the process of reaching an agreement.
2. **Involvement of Independent Mediator:** Professional mediators or respected community leaders are involved in some cases to help reach a fair solution.
3. **Restorative Justice Socialization:** Pekalongan City Police collaborate with educational institutions and community organizations to educate the public about the concept and benefits of restorative justice.
4. **Optimizing the Compensation Payment Process:** The compensation payment process is closely monitored to minimize delays. In some cases, third parties are involved to help with initial funding until the perpetrator can pay off the compensation in full.
5. **Strengthening Relations between the Police and the Community:** The Indonesian National Police are increasing communication with the community to strengthen the understanding that restorative justice is a fair and humane approach, not a form of compromise.

3.5. Impact of Implementing Restorative Justice

The implementation of restorative justice at the Pekalongan City Police has had a significant impact in several aspects, namely:

- **Social Relationship Restoration:** Victims and perpetrators have the opportunity to repair relationships, creating post-conflict social harmony.
- **Efficiency of Legal Process:** Diversion reduces the burden on the formal criminal justice system, allowing legal resources to be allocated to more complex cases.
- **Increasing Legal Awareness:** Child perpetrators and the community begin to understand the importance of social responsibility and obedience to the law.
- **Improving the Image of the Police:** Success in resolving cases through restorative justice contributes to the image of the Police as a humanistic and professional institution.

4. Conclusion

Restorative justice implemented through the diversion mechanism at the Pekalongan City Police has proven to be an effective approach to dealing with traffic crimes involving minors. However, the success of the implementation still faces various technical and social obstacles, which require collaborative solutions.

5. References

Laili, Nisfawati. "The Concept of Diversion in Resolving Child Criminal Cases." *Al-Ihkam*, 2024.

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

Marlina. *Juvenile Criminal Justice in Indonesia: Development of the Concept of Diversion and Restorative Justice*. Refika Aditama, 2009.

Susetyo, Heru. *Prisoner Guidance System Based on Restorative Justice Principles*. National Legal Development Agency Top of Form.

Zehr, Howard. *The Little Book of Restorative Justice*. Good Books, 2002.