

## **The Urgency of Criminal Accountability for Minors Involved in Traffic Accidents Based on Justice**

**Joko Supriyanto<sup>1)</sup> & Andri Winjaya Laksana<sup>2)</sup>**

<sup>1)</sup>Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia,  
E-mail: [jokosupriyanto909@yahoo.com](mailto:jokosupriyanto909@yahoo.com)

<sup>2)</sup>Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia,  
E-mail: [andri.w@unissula.ac.id](mailto:andri.w@unissula.ac.id)

**Abstract.** *This study aims to analyze the urgency of criminal liability for minors involved in traffic accidents based on the principle of justice. The phenomenon of child accidents demonstrates the complexity of the law, as a child's age influences their capacity to be criminally responsible. This study emphasizes the need for a legal approach that takes into account the child's age, level of understanding, and abilities, so that the law is not only repressive but also educational and rehabilitative. Furthermore, this research examines the weaknesses and challenges faced by law enforcement officials in determining the criminal responsibility of children. Many cases demonstrate unclear procedures, limited rehabilitation facilities, and minimal psychological support. A justice-based approach is needed to ensure that the juvenile justice process balances the protection of children's rights with the restoration of victims' rights. The research results show that the urgency of justice-based criminal accountability emphasizes educational, preventive, rehabilitative, and restorative aspects. Children who experience a justice-based legal process can understand mistakes, learn responsibility, and internalize legal norms. Thus, the implementation of justice-based criminal accountability supports the development of a legally aware and responsible generation.*

**Keywords:** *Accidents; Criminal; Justice; Liability.*

### **1. Introduction**

In a state based on the rule of law, law is the main pillar driving the foundations of social, national, and state life. One of the main characteristics of a state based on the rule of law lies in its tendency to assess the actions of its citizens based on legal regulations. This means that a state based on the rule of law always regulates every action and behavior of its citizens based on applicable laws.

Criminal law itself is a tool or means for resolving problems in society. The

existence of criminal law can provide justice and appropriate solutions for that society. Because criminal law is a set of regulations that regulate actions, both ordering or prohibiting actions or doing something, which are regulated in the law, with criminal sanctions for violators. Meanwhile, the criminal law in force in Indonesia can be divided into two types: criminal law recognized in the Criminal Code (KUHP) and Special Criminal Law regulated outside the KUHP.

Criminal law not only provides an understanding of actions 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 related to the imposition of penalties and how the penalty can be implemented. The prohibition is directed at actions, a condition or event caused by a person's behavior or actions. The threat of criminal penalties or sanctions is 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 a supporter of rights and obligations in the legal field. So that criminal acts are one of the parts studied in criminal law.

Traffic accidents are a serious problem that result in loss of life and material damage, particularly for vulnerable groups such as minors. Children involved in traffic accidents, whether as drivers or passengers, present complex legal challenges because their age affects criminal liability and applicable legal protections. This phenomenon is important to study because it demonstrates the relationship between negligent behavior, maturity level, and the appropriate application of criminal law.

According to Moeljatno, crimes under criminal law encompass not only acts that violate norms but also subjective factors such as intent and legal awareness of the perpetrator. In the context of minors, these subjective factors often differ from those of adults, necessitating a legal approach that takes into account age, level of understanding, and capacity for responsibility.

In Indonesian law, children involved in traffic accidents are regulated by Law No. 22 of 2009 concerning Road Traffic and Transportation, and Law No. 11 of 2012 concerning the Juvenile Criminal Justice System. These regulations emphasize that the handling of children involved in traffic accidents must prioritize protection, rehabilitation, and education, not simply criminal sanctions.

In the social and legal context in Indonesia, the increasing number of traffic accidents involving minors has become a serious concern. Several cases in various regions demonstrate that underage children often drive motorized vehicles without parental supervision. When an accident occurs, debate arises over who should be held legally responsible—the child, their parents, or other negligent parties. This phenomenon reflects the gap between prevailing legal norms and evolving social realities, as well as the need for more comprehensive regulations

to uphold justice for all parties involved.

Furthermore, accidents involving minors raise questions about the effectiveness of criminal law enforcement at the police and court levels. Many cases demonstrate that law enforcement officials face difficulties in determining the level of responsibility of the child, whether they should be prosecuted, warned, or directed toward rehabilitation and counseling.

According to Satjipto Rahardjo, criminal law should have both preventive and rehabilitative functions, especially when it involves children. Therefore, criminal law enforcement in cases of accidents involving minors should not be solely repressive, but must balance the interests of child protection and justice for the victim.

The phenomenon of accidents involving minors also reflects the need for more intensive traffic education, increased parental supervision, and stricter regulations regarding driving age limits. This aligns with the legal theory put forward by Lawrence M. Friedman, who states that law is measured not only by written norms but also by its application in everyday social practice.

With this background, this study aims to analyze legal aspects that include criminal liability, legal protection, and the effectiveness of law enforcement in the context of children. This study is expected to contribute to the understanding of juvenile criminal law and more appropriate and humane policy recommendations, therefore the author is interested in conducting an in-depth study entitled "THE URGENCY OF CRIMINAL RESPONSIBILITY FOR MINORS INVOLVED IN JUSTICE-BASED TRAFFIC ACCIDENTS".

## **2. Research Methods**

This study uses normative legal research, namely using norms in laws with a conceptual approach and a special approach. The research specification used is Analytical Descriptive, namely an effort to analyze and explain legal issues related to the object. The method used in this study is normative juridical. This research goes through the stages of literature study, the data obtained is then analyzed through a qualitative analysis approach. Qualitative data processing and analysis generally emphasize the analysis of the deductive and inductive conclusion process and the dynamics of the relationship between observed phenomena using scientific logic.

## **3. Results and Discussion**

### **3.1. Criminal Liability for Minors Involved in Traffic Accidents**

Criminal liability for minors is fundamentally different from that for adults, taking into account mental capacity and legal understanding. Children's maturity is not yet optimal, so legal action must adhere to the principle of age-based justice. The

legal approach to children involved in traffic accidents cannot be exactly the same as for adults. Juvenile criminal law mechanisms emphasize education, rehabilitation, and guidance. This aims to help children understand their mistakes without experiencing excessive legal trauma.

In traffic accidents, children can act as drivers or passengers. This factor influences the extent to which criminal liability can be imposed. For example, underage drivers often lack a valid license, requiring law enforcement to assess the intent, negligence, and impact of their actions. This assessment determines whether the child is prosecuted, warned, or directed to a rehabilitation program. This approach aligns with the principles of restorative justice, which emphasize restoration, not just punishment.

According to Chairul Huda, criminal liability arises when there is a wrongful act that violates the law. Children involved in traffic accidents can be held criminally liable if proven negligent or unlawful. However, the application of criminal sanctions to children must be tailored to their age and level of understanding. Juvenile criminal law emphasizes education and social reintegration rather than solely repressive punishment. This reflects the principle of restorative justice in juvenile law.

Law No. 11 of 2012 concerning the Juvenile Criminal Justice System emphasizes that children who commit violations must be processed with due regard for the protection, rehabilitation, and best interests of the child. The legal process for children begins with a police investigation, a negligence assessment, and mediation and counseling. In traffic accidents, law enforcement must determine whether the child can be held criminally responsible or directed to an education and counseling program. This approach differs from law enforcement against adults, which tends to be repressive.

Empirical data shows that most children involved in accidents have no malicious intent. The fault is generally due to negligence, ignorance, or social influences. Therefore, the legal system emphasizes preventive, educational, and rehabilitative measures. The focus of juvenile criminal law is not solely on retribution, but rather on learning and protection. This aims to enable children to understand the risks of their actions and prevent them from repeating the same mistakes.

The effectiveness of juvenile criminal accountability depends heavily on the preparedness of law enforcement and supporting facilities. Police, prosecutors, and juvenile courts must have clear operational procedures. These operational standards encompass assessments of a child's age, legal understanding, and the social impact of their actions. This preparedness impacts the ability of law enforcement to uphold age-based justice. Furthermore, adequate juvenile rehabilitation facilities are a crucial part of the recovery process.

The principle of age-appropriate justice emphasizes that juvenile criminal

penalties must be proportional and commensurate with the child's level of culpability and mental capacity. Excessively harsh penalties can have negative psychological impacts, while excessively lenient penalties diminish the law's deterrent effect. Therefore, juvenile criminal liability is designed to balance aspects of justice, education, and social reintegration. This principle serves as a guideline for law enforcement in handling accident cases involving minors.

Traffic accidents involving minors often present a dilemma between the interests of the victim and the child's rights. The juvenile criminal justice system must balance these two aspects. Assessment of the child's negligence, social impact, and victim protection are key considerations. This aligns with Satjipto Rahardjo's theory that juvenile criminal law has preventive, rehabilitative, and restorative functions.

The legal culture of a community also determines the application of criminal responsibility for children. If the community understands the risks of accidents and emphasizes child safety, law enforcement tends to provide humane and educational treatment. This aligns with Lawrence M. Friedman's theory of legal structure, legal substance, and legal culture in the effectiveness of law enforcement. A legal culture that supports the education and development of children strengthens the rehabilitative function of the criminal justice system.

Juvenile criminal responsibility encompasses both legal and social dimensions. Legally, children can be held accountable for actions that violate traffic regulations. Socially, the legal approach must consider the psychological and educational impacts on children. The combination of these two dimensions ensures that juvenile criminal law does not harm the child's development but maintains justice for the victim and society.

In practice, law enforcement often combines mediation with light sanctions or counseling programs. The goal is for children to understand the consequences of their actions, make amends for the victim, and learn legal discipline. This approach emphasizes the preventive and educational functions of juvenile criminal law. Rehabilitation is a crucial component that differentiates juvenile criminal liability from adult criminal law.

Beyond formal legal aspects, traffic education is part of children's social and legal responsibilities. Law enforcement and families play a role in educating children about safety, road rules, and social responsibility. Therefore, juvenile criminal law does not operate in isolation but is integrated with family and community education and supervision.

Evaluations of child accident cases show that many children commit violations due to a lack of education and supervision. This demonstrates the urgency of implementing justice-based criminal accountability, which emphasizes a balance between child protection and the interests of victims. This system also emphasizes

the importance of guidance and rehabilitation, not simply sanctions.

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Several previous studies from Sultan Agung Islamic University (Unissula) emphasized the importance of a restorative justice approach in handling children in conflict with the law. This research demonstrated that mediation, counseling, and legal education programs for children have the potential to reduce reoffending rates. Children who participate in rehabilitation programs better understand the consequences of their actions and demonstrate better discipline than those who are only subject to formal criminal sanctions.

Another study from Unissula revealed that family environmental factors significantly influence a child's level of compliance with the law. Children who receive supervision, moral guidance, and disciplinary education from their parents or guardians are less likely to be involved in traffic accidents or other legal violations. This finding emphasizes the importance of integrating the legal system, education, and family development.

The research also shows that law enforcement officers with a thorough understanding of juvenile criminal law can apply proportionate accountability. Police, prosecutors, and juvenile courts operating on the principle of age-based justice are able to assess a child's negligence, intent, and capacity, thus tailoring



punishment or guidance.

From an Islamic perspective, protecting children who are perpetrators or victims of traffic accidents is a moral and legal obligation. The principle of "la darar wa la dirar" emphasizes that children should not cause harm to themselves or others, so any actions that endanger children must be prevented and handled fairly.

The Quran emphasizes the importance of safeguarding lives, including those of children, through a verse that emphasizes that every soul is precious and must be protected (Quran 1:32). This view underpins the Islamic approach to handling cases involving minors, both as victims and perpetrators, to ensure their rights are safeguarded.

The hadith of the Prophet Muhammad (peace be upon him) emphasizes the responsibility of each individual for their actions. Children who have not yet reached full maturity must still be guided and educated to understand their mistakes without receiving psychologically damaging punishment. This approach aligns with the principles of restorative justice and restorative justice in Islamic law.

Unissula's research also demonstrated the effectiveness of traffic education programs for children. Children who participated in training on driving discipline, safety, and legal awareness showed a reduced risk of accidents. This strengthens the argument that juvenile criminal liability should be combined with preventive and rehabilitative education.

Overall, the integration of Islamic perspectives and previous research findings confirms that juvenile criminal responsibility extends beyond mere punishment. This approach emphasizes child development, education, social recovery, and reintegration into society, while protecting victims' rights and ensuring justice based on the child's age, morals, and mental capacity.

Thus, criminal liability for minors involved in traffic accidents must take into account age, degree of culpability, social impact, legal culture, and the principle of age-based justice. This legal approach is educational, preventative, and rehabilitative, while upholding justice for the victim and society.

### **3.2. Weaknesses of Criminal Liability for Minors Involved in Traffic Accidents**

Criminal liability for minors in traffic accidents faces several weaknesses in practice. One major issue is the lack of clarity in determining the child's level of culpability. Children do not yet have the same emotional and cognitive maturity as adults, making it difficult to objectively assess intent and negligence. Law enforcement is often faced with the dilemma of whether to pursue criminal proceedings or prioritize the child's education and development. This weakness creates legal uncertainty for both the child and the victim and their family.

Furthermore, differing interpretations among police, prosecutors, and judges



regarding children's capacity create inconsistencies in the application of the law. Often, children are treated differently depending on the location or the authority handling the case. This contradicts the principle of equality before the law. The lack of detailed procedural guidance in the Juvenile Criminal Justice System Law further complicates the assessment of accountability. This uncertainty can foster perceptions of injustice in the community.

Another weakness lies in the lack of adequate rehabilitation and development facilities for children. Many regions lack specialized institutions or integrated rehabilitation programs. As a result, children who should be directed to education and development are instead subjected to light sanctions or left unsupervised. This reduces the effectiveness of the juvenile justice system in achieving its preventive and educational goals.

Lengthy and complex legal processes also hinder children's criminal accountability. Children and their families often experience confusion regarding applicable legal procedures. The lack of professional legal assistance leads to children's lack of understanding of their rights and obligations. This weakness has the potential to lead to injustice for children, as legal decisions can be made without adequate understanding.

The lack of traffic education for children is an external factor that weakens criminal accountability. Children involved in accidents are often unaware of traffic rules or the risks of their actions. This creates a dilemma for law enforcement: whether to strictly enforce the law or emphasize education and guidance. This imbalance is a major weakness in the application of juvenile criminal accountability.

The mismatch between the minimum driving age and a child's abilities is also a structural weakness. Many minors already drive without a valid license, making it difficult for law enforcement to assess negligence. This factor presents challenges in determining the proportion of criminal responsibility and appropriate sanctions.

On the other hand, a legal culture that doesn't fully understand the principles of restorative justice weakens children's criminal accountability. There's still a tendency for society to demand repressive punishments without considering child rehabilitation. This imbalance impacts law enforcement's ability to make decisions in accordance with the principles of age-based justice.

The lack of empirical data and in-depth research on child accidents makes it difficult to formulate appropriate legal policies. Information on children's behavior patterns, levels of legal understanding, and social impacts is rarely systematically documented. This weakens the basis for criminal accountability, as law enforcement lacks a clear reference point for decision-making.

Legal assistance provided by parents or guardians is also often suboptimal. Parents who lack an understanding of legal procedures or their children's rights may fail to

provide appropriate assistance. As a result, children are vulnerable to unfair legal proceedings. This weakness highlights the need to integrate the role of the family into the juvenile criminal justice system.

Furthermore, coordination between relevant agencies, such as the police, prosecutors, courts, and social services, is often suboptimal. This lack of synchronization leads to slow and inefficient legal proceedings. Children involved in accidents can experience legal uncertainty, while victims and their families await justice.

Limited human resources in juvenile justice institutions are also a problem. Law enforcement officers handling juvenile cases do not always have specialized competencies in child psychology, education, and juvenile criminal law. This limitation impacts the accuracy of assessing juvenile criminal responsibility.

Socioeconomic factors for children and their families also influence the weaknesses in criminal accountability. Children from low-income families tend to receive different legal treatment than children from more affluent families. This creates inequality and perceptions of injustice in legal practice.

The lack of clarity in the regulation of criminal sanctions is also a weakness. Some children are only given warnings or counseling, while others can be prosecuted, even if the level of offense is the same. This inconsistency creates uncertainty and undermines the principle of equality before the law.

The lack of integration between traffic education in schools and the juvenile justice process weakens the effectiveness of criminal accountability. Children who should be learning from legal experience are not receiving adequate education. This potentially increases the risk of reoffending by children.

Minimal psychological support and counseling also exacerbate the system's weaknesses. Children who experience trauma from accidents and legal proceedings without psychological support tend to struggle to understand their responsibilities. This psychological impact can undermine the preventive function of juvenile criminal law.

The study, "Criminal Liability of Child Perpetrators in Traffic Accidents with Biological Parents as Victims," specifically examines the case of a child as the perpetrator of a traffic accident that killed his biological parent. This article was published in *Recidive: Journal of Criminal Law and Crime Prevention*, vol. 12 no. 2, 2023. It notes that in practice, determining criminal liability for children still faces a dilemma between law enforcement and development mechanisms. The results of the study indicate that the child's age and psychosocial condition are not always consistently prioritized in sentencing.

In the study "Juridical Analysis of Traffic Accident Resolution by Children Using a

Diversion Approach (Study of Decision Number 08/Pid.Sus/2015/PN Mdn)" published in the METADATA Scientific Journal, vol. 4 no. 3, 2022, researchers analyzed court decisions for children involved in traffic accidents with serious injuries. They found that the application of diversion in child cases is still limited, and the lack of consent from the victim and the compensation process are often major obstacles.

Furthermore, the study "Juridical Analysis of Law Enforcement Against Traffic Violations by Minors" in *Lex Crimen*, vol. 14 no. 1, 2025, provides an overview that children under the age of 12 who commit traffic violations are not always processed criminally, but are directed to guidance or returned to their parents/guardians. However, this study also highlights the inconsistency between the decision and the norms in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

Finally, the study "Implementation of Diversion for Traffic Accidents Involved by Minors in Balikpapan City," published in the *De Jure Journal*, vol. 15 no. 1, 2024, examined the specific case of a child perpetrator of a traffic accident that killed his parents in Balikpapan and how the diversion mechanism was implemented. They found that diversion requirements, such as not repeating the crime and facing a sentence of less than seven years, were not always met, resulting in many cases of children still being processed criminally even though they could have been directed to counseling.

Overall, the weaknesses in criminal liability for minors involved in traffic accidents encompass structural, procedural, social, and psychological aspects. Addressing these weaknesses requires legal reform, improved rehabilitation facilities, education, and integrated support.

### **3.3. The Urgency of Justice-Based Criminal Accountability for Minors**

The urgency of criminal accountability for minors involved in traffic accidents is closely related to the principle of restorative justice. Children are not only perpetrators but also individuals undergoing mental, social, and emotional development. Therefore, the application of criminal law must emphasize education, rehabilitation, and social reintegration. This principle is crucial to ensure that children understand their mistakes without experiencing excessive legal trauma. Age-based justice demands a balance between child protection and victim rights.

Justice-based criminal accountability also emphasizes preventive measures. By providing understanding and education about legal consequences and traffic safety, children learn to avoid future risks. Criminal sanctions are not simply punishment but also a learning tool. This aligns with the goals of juvenile criminal law, which prioritizes rehabilitative and educational aspects. This preventive approach helps reduce the number of accidents involving children.

The urgency of juvenile criminal accountability can also be seen from a social perspective. Children who learn to understand mistakes and the consequences of their actions will become more responsible members of society. The social environment, including family, school, and surrounding community, plays a role in supporting this legal education. Age-based justice emphasizes that the legal process is not only about enforcing rules but also about developing children's legal awareness.

From a formal legal perspective, the juvenile criminal justice system ensures that children involved in accidents are processed with due regard for their rights. Law No. 11 of 2012 concerning the Juvenile Criminal Justice System emphasizes the principles of protection, rehabilitation, and education. Legal authorities, including the police, prosecutors, and judges, are required to assess a child's capacity before determining criminal responsibility. This demonstrates the urgency of implementing the principle of age-based justice.

Several previous studies have emphasized the importance of educational and restorative criminal accountability mechanisms. For example, research by Nurul Fathiqah Sari (2023) shows that determining criminal responsibility for children involved in traffic accidents still faces a dilemma between formal law and guidance. Another study by Hendra Marlan & Mustamam (2022) found that the application of diversion for children in traffic accident cases remains limited due to the lack of victim consent and compensation procedures. These findings emphasize the need to integrate the principle of age-based justice with consistent and holistic legal practices.

Another urgency arises from the role of law in shaping children's behavior. Educational and proportionate punishment helps children understand the boundaries that exist in society. Thus, children not only face legal consequences but also learn to internalize social norms. This process serves as a form of prevention to prevent children from repeating the same mistakes.

The Islamic perspective also emphasizes the principles of justice and protection for children. The Quran emphasizes the importance of upholding justice (Surat an-Nisa: 58) and providing protection for vulnerable individuals, including children. In the context of traffic accidents, this principle encourages a legal approach that considers children's capacities, rehabilitation, and education, rather than simply resorting to repressive punishment.

In practice, the urgency of justice-based criminal accountability for children also relates to the balance between the interests of the victim and the perpetrator. Law enforcement must assess the victim's losses and ensure restitution or compensation, while still providing protection and guidance for the child. This approach emphasizes that justice is not only retributive but also restorative.

Furthermore, the urgency stems from the need to build public trust in the legal

system. The public tends to judge justice by the balance between the punishment received by the perpetrator and the protection of the victim's rights. The implementation of justice-based criminal accountability demonstrates that the law can enforce rules while simultaneously providing protection and education for children.

The child's psychological factors are also an important consideration. Children involved in traffic accidents may experience trauma from the incident and the legal process. Therefore, justice-based criminal accountability requires psychological support and counseling. This approach helps children understand their mistakes, accept the consequences, and develop a healthy legal awareness.

A justice-based approach also considers the child's social environment. Children living in environments that support traffic safety and education are more likely to accept educational legal processes. A positive environment strengthens the rehabilitative function of juvenile criminal law. This demonstrates that the urgency of juvenile criminal accountability is not only individual but also social.

The urgency of child criminal accountability is also evident in the need for clear procedural standards for law enforcement. These standards encompass age assessments, legal understanding, and guidance and rehabilitation methods. Clear procedures contribute to a more consistent and effective application of age-based justice. Children who understand legal procedures are also better able to respect the legal process.

Furthermore, the urgency is also related to the formation of a legal culture in society. Children who experience a justice-based legal process will have a greater appreciation for legal norms and rules. This aligns with Lawrence M. Friedman's theory that legal culture is a crucial factor in the effectiveness of the legal system. Consistent legal education from an early age helps build legal awareness in children and society in general.

The urgency of justice-based criminal accountability also supports the principle of restorative justice. Children involved in accidents are given the opportunity to correct their mistakes, compensate the victims for their losses, and learn from their experiences. This process not only has a preventive effect but also fosters social responsibility. This approach emphasizes that the goal of juvenile criminal law is education and recovery, not simply repressive punishment.

The limited availability of rehabilitation facilities and legal assistance underscores the urgency of legal and policy reform. The government needs to establish specialized institutions for child education, counseling, and development. This will ensure that justice-based criminal accountability for children can be implemented effectively and comprehensively.

The urgency also relates to long-term legal compliance. Children who receive legal

education through a justice-based criminal accountability process are more likely to comply with traffic laws and social norms in the future. This preventive function is one of the main reasons why age-based justice is necessary.

Overall, the urgency of criminal accountability for minors involved in traffic accidents encompasses educational, preventive, rehabilitative, and restorative dimensions. The application of age-based justice principles ensures a balance between child protection, the interests of victims, and the interests of society. This system helps build a more legally aware and responsible generation.

#### **4. Conclusion**

The Principle of Diversion as the Primary Solution: Criminal liability for children involved in traffic accidents must prioritize the principle of diversion, as mandated by Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA). Diversion must be pursued at every level of investigation, especially for minor accidents, to avoid stigmatization and ensure the child's development. The Implementation of Restorative Justice Principles Is Less Than Optimal: Although the concept of restorative justice has been accommodated in the SPPA Law, its implementation in the field still faces challenges, particularly in cases of traffic accidents involving serious injuries or death. Law enforcement tends to use a retributive approach (retribution/punishment) due to public pressure and the difficulty of reaching a just peace agreement for the victims. The Urgency of Improving Education and Supervision: The root cause of traffic accidents involving children is a lack of parental supervision and children's lack of understanding of the risks and traffic regulations. Therefore, criminal liability must be balanced with non-legal efforts, namely increased education and prevention. Criminal Liability as Ultimum Remedium: The imposition of pure criminal sanctions (such as imprisonment) must be the last resort (ultimum remedium) and should only be applied in cases of very serious traffic accidents, where the child's negligence factor is proven to be extreme and diversion efforts are not possible, but still taking into account the best interests of the child.

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