

The Effectiveness Of Restorative Justice In Resolving Traffic Accident Cases By Investigators At The Pandeglang Police

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Abstract. *This study aims to analyze the implementation and effectiveness of Restorative Justice in resolving traffic accident cases resulting in fatalities by investigators at the Pandeglang Police Department, as well as to formulate future strategies to strengthen its implementation. The background to this research is based on the high number of fatal traffic accidents and the need for a case resolution model that is not solely retributive but also restorative, particularly in criminal acts due to negligence (culpa). The Restorative Justice approach is normatively based on Police Regulation Number 8 of 2021 concerning Handling Criminal Acts Based on Restorative Justice, which authorizes investigators to terminate investigations if material and formal requirements are met and a peace agreement is reached between the perpetrator and the victim's family. This study uses an empirical juridical approach with descriptive analytical research specifications. Data were obtained through literature review and field research, then analyzed qualitatively. The results indicate that the implementation of Restorative Justice in traffic cases resulted in death at the Pandeglang Police Department was carried out selectively, casuistically, and with the principle of prudence. This implementation took into account the elements of the perpetrator's negligence, the willingness of the victim's family to voluntarily reconcile, and the resulting social impact. Normatively, the implementation complies with the provisions of Police Regulation 8/2021, but in practice still faces challenges in the form of retributive public perceptions and limited mediation capacity of some officers. In terms of effectiveness, the implementation of Restorative Justice is considered quite effective when viewed from the theory of legal effectiveness, as it is able to expedite case resolution, provide space for active participation for the victim's family, provide redress in the form of material compensation and recognition of the perpetrator's responsibility, and support the perpetrator's social reintegration. However, this effectiveness is conditional and highly dependent on the professionalism of investigators, fulfillment of normative requirements, and community acceptance of the restorative approach. Future formulations require strengthening more comprehensive regulations, standardizing mediation*

procedures, increasing the capacity of law enforcement officers, and public education to build a broader understanding of the principles of restorative justice. Thus, restorative justice can be an alternative resolution for fatal traffic accidents that is not only procedurally effective but also substantively just and aligned with Indonesian social values.

Keywords: *Investigations; Legal Effectiveness; Pandeglang Police; Restorative Justice; Traffic Accidents.*

1. Introduction

Indonesia is a state based on the rule of law, where the implementation of governmental power is based on law. In a state based on the rule of law, the power to exercise government is based on the rule of law (the supremacy of law) and aims to maintain legal order. A state based on the rule of law is a social organization that aims to regulate and organize a society through its power. Law is a set of rules or standards structured into a system that determines what humans as citizens may and may not do in their social life. The state constitution must also contain the concept of constitutionalism, namely the limitation of power and the guarantee of basic rights of citizens. Thus, in a state based on the rule of law, state power is based on law, not mere power, and the state government is based on a constitution that adheres to constitutionalism. Without this, it is difficult to be a state based on the rule of law.

Law is the totality of rules regarding behavior that apply in a community life, the implementation of which can be enforced through sanctions. The clearest form of legal sanctions is seen in criminal law explained regarding criminal acts, namely "acts prohibited by a legal regulation, which prohibition is accompanied by a threat (sanction) in the form of a certain penalty, for anyone who violates the prohibition. However, acts prohibited by a legal regulation are often violated by society and often become a habit. For example, driving a vehicle carelessly or even exceeding the maximum speed seems to be an immature behavior in society. However, in reality, quite a few underage drivers often commit traffic violations which cause traffic accidents.

Traffic behavior issues are a common phenomenon in large cities in developing countries. This problem is often associated with the increasing number of urban populations, which results in increased activity and congestion on the roads. Diverse vehicle traffic and a faster increase in the number of vehicles compared to the increase in road infrastructure have resulted in various traffic problems such as congestion and traffic accidents. Traffic accidents remain a serious problem in both developing and developed countries. One of the government's foundations for implementing traffic regulations is Law Number 22 of 2009 concerning Traffic and Road Transportation.

This law was enacted in a Plenary Session of the Indonesian House of Representatives on May 26, 2009, and was subsequently ratified by the President of the Republic of Indonesia on June 22, 2009. The background to the creation of this regulation was the high number of accidents that occur every day. And by reducing the number of violations, it is hoped that the number of accidents can be reduced and traffic safety can be increased. Various efforts have been made, such as using special helmets for motorcyclists, and using seat belts for car drivers, but in reality, many traffic accidents still occur to this day. Although various protective measures have been used, they must still be supported by vigilance and knowledge of the factors that cause accidents themselves. The lack of traffic order is a glaring problem in Indonesia today. People are seen driving carelessly on the highway, which results in many traffic accidents and many fatalities.

2. Research Methods

The approach method used in this research is normative juridical, namely legal research conducted by examining library materials (secondary data) which includes research on legal principles, legal systematics, the level of synchronization of statutory regulations, comparative law or legal history.

3. Results and Discussion

3.1. Implementation of Restorative Justice in Traffic Cases Resulting in Death

The implementation of Restorative Justice (RJ) in traffic cases resulting in death is a form of criminal law policy that emphasizes restoration of the situation and social harmony as the primary goals of case resolution. Unlike the retributive approach, which focuses on punishment, the restorative approach focuses on the perpetrator's responsibility to repair the harm caused and restore the relationship between the perpetrator and the victim's family.

In the Indonesian legal system, the implementation of Restorative Justice at the investigative level has a clear normative basis through Indonesian National Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. This regulation authorizes investigators to terminate an investigation if reconciliation has been achieved between the perpetrator and victim and all formal and material requirements are met. Furthermore, the implementation of Restorative Justice is supported by the National Police Chief's Circular Letter Number SE/8/VII/2018, which serves as the basis for internal police policy. In traffic accidents resulting in death, the application of RJ is selective and case-by-case. This is because such incidents are criminal acts that seriously impact a person's right to life. Therefore, investigators must ensure that the incident was purely due to negligence (*culpa*) and not intentional (*dolus*). The element of

negligence is a primary consideration because in criminal negligence, the perpetrator's fault is not intentional, leaving room for restorative resolution.

Based on field research, the implementation of restorative justice in traffic accidents resulting in death is generally selective and prudent. Traffic accidents resulting in death are generally classified as crimes due to negligence (*culpa*), not intent (*dolus*). Therefore, a restorative justice approach is possible as long as it meets legal requirements and obtains the consent of the parties.

The research results show that the application of restorative justice is not automatically carried out in every fatal accident case. Investigators first assess the elements of fault, the level of negligence, the perpetrator's condition, and the response of the victim's family. Therefore, the implementation of restorative justice in this case is casuistic in nature and takes into account the legal and social dimensions.

Based on observation data and case documentation, the implementation of Restorative Justice in traffic cases resulting in death is carried out through several stages as follows:

A. Identification of Case Eligibility

The initial stage is an assessment of the case's suitability for resolution through restorative mechanisms. Investigators consider several aspects, including:

- a. The incident occurred due to negligence, not intentional.
- b. The perpetrator showed good faith and admitted his mistake.
- c. There are no aggravating elements such as the influence of alcohol or serious violations.
- d. The victim's family is willing to engage in dialogue.

The research results show that if one of these elements is not fulfilled, the Restorative Justice process will not be continued and the case will still be processed through the regular judicial mechanism.

B. Approach to the Victim's Family

The next stage is a persuasive approach to the victim's family. Investigators explain the mechanisms of restorative justice, the victim's rights, and the legal consequences of a settlement agreement. In practice, this stage is crucial because the victim's family is often in an emotionally unstable state due to the loss of a family member. Research has found that the success of this stage depends heavily on empathetic communication and non-coercion.

C. Mediation Process or Restorative Dialogue

The mediation process involves bringing together the perpetrator and the victim's family in a forum facilitated by an investigator or neutral mediator. In some cases, community or religious leaders are also involved to maintain balance and a conducive atmosphere.

D. Drafting and Signing of the Peace Agreement

If an agreement is reached, it will be stated in a written document containing:

- a) Statement of admission of guilt.
- b) Apology from the perpetrator.
- c) Form of compensation or assistance.
- d) Statement that no further criminal charges will be filed (if in accordance with the provisions).

E. Legal Follow-up

Restorative agreements are then used as a consideration in case termination or prosecution, taking into account the principles of expediency and justice. However, research shows that case terminations are still carried out selectively to avoid the appearance of impunity.

The implementation of restorative justice in traffic cases resulting in death is an innovative form of law enforcement focused on restoration and balancing interests. However, its implementation requires clear standards, strict oversight, and commitment from law enforcement officials to prevent abuse of authority and maintain a sense of justice in the community.

3.2. The effectiveness of implementing Restorative Justice in traffic cases resulting in death

The effectiveness of the application of Restorative Justice in traffic cases resulting in death is an important issue in the development of modern criminal law in Indonesia. In the context of traffic crimes, particularly those resulting in death as regulated in Article 310 paragraph (4) of Law Number 22 of 2009, the perpetrator's actions are generally negligent (*culpa*) and not intentional (*dolus*). This characteristic of negligence opens up space for the application of a restorative approach because the primary objective of law enforcement is not only oriented towards retribution, but also towards restoring the losses and social balance

disturbed by the incident. This approach gains operational legitimacy through Police Regulations.

Law Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice, which gives investigators the authority to terminate an investigation if a settlement has been reached and certain material and formal requirements are met.

Conceptually, the effectiveness of restorative justice can be understood through the theory of legal effectiveness put forward by Soerjono Soekanto, who emphasizes that the success of a legal rule is influenced by the legal factors themselves, law enforcement officers, means and facilities, society, and legal culture. In the context of traffic accident cases resulting in death, the effectiveness of the application of restorative justice is not only measured by the existence of regulations, but also by how investigators are able to facilitate dialogue between the perpetrator and the victim's family, how the community accepts the results of the settlement, and the extent to which the promised recovery is actually realized. The theory put forward by Howard Zehr (2002) is also relevant in explaining the effectiveness of this approach, because restorative justice is seen as a process that involves all affected parties to jointly determine a fair and recovery-oriented solution, not just punishment.

A number of empirical studies show that the application of restorative justice in fatal traffic cases has a fairly high level of effectiveness if implemented professionally and transparent. Nurhayati's (2020) research found that the majority of victims' families who participated in the restorative mediation process expressed satisfaction with the settlement outcome, particularly due to the perpetrator's direct admission of guilt and the provision of compensation that helped ease the financial burden on the victim's family. This finding suggests that substantive justice is more readily perceived than if the case were solely resolved through formal judicial mechanisms that result in imprisonment without any tangible reparation for the victim's family. Wulandari (2022) similarly stated that the success of restorative justice is largely determined by the perpetrator's sincerity in demonstrating remorse and willingness to comply with the peace agreement, including compensation and moral support for the victim's family.

From the perspective of justice system efficiency, research by Ramadhan and Putra (2021) shows that resolving cases through restorative justice mechanisms tends to expedite the case handling process compared to formal litigation. This shorter resolution time not only reduces administrative and state budgetary burdens but also spares victims' families from lengthy legal proceedings that could potentially prolong psychological trauma. This efficiency is an important indicator in assessing effectiveness, as the criminal justice system does not

not only required to produce fair decisions, but also to work proportionally and not burden the parties excessively.

Furthermore, the effectiveness of restorative justice is also reflected in the social reintegration of offenders. Research by Nur (2021) shows that offenders whose crimes were resolved through a restorative approach have a greater chance of being accepted back into their social environment. This is because the offender has undergone a process of accountability directly to the victim's family, thereby minimizing social stigma. Unlike imprisonment, which often leads to negative labeling, a restorative approach allows offenders to maintain their jobs and social roles, as long as they fulfill their agreed commitments. From a modern criminological perspective, this supports rehabilitative goals and the prevention of recidivism.

However, the effectiveness of restorative justice in cases resulting in death is not without challenges. Strong public perception of the retributive paradigm often holds that any act that results in the loss of life must be met with imprisonment. Research by Wulandari (2022) notes that public resistance to restorative justice increases when a case receives widespread media coverage. Furthermore, the investigator's ability to mediate conflict is crucial. Not all officers

possess adequate communication and negotiation skills to reconcile the interests of the perpetrator and the victim's family in sensitive emotional situations. Another obstacle is the lack of explicit provisions in the Criminal Procedure Code regarding restorative justice-based case termination, so implementation in the field still relies on interpretation and internal institutional policies.

Based on the overall research findings and theoretical analysis, it can be concluded that the effectiveness of implementing restorative justice in traffic accident cases resulting in death depends heavily on the fulfillment of normative requirements, the professionalism of law enforcement officers, and social acceptance of the restorative approach. In conditions where the perpetrator was truly negligent without any element of intent, demonstrated good faith, and the victim's family is willing to reconcile voluntarily without pressure, this approach has been proven to provide more comprehensive recovery compared to conventional punishment systems. Thus, restorative justice can be considered effective as an alternative resolution of fatal traffic accident cases, as long as its implementation is carried out in an accountable, transparent manner, and still takes into account the community's sense of justice.

4. Conclusion

The implementation of Restorative Justice (RJ) in traffic cases resulting in death is essentially carried out selectively, on a case-by-case basis, and with the principle of prudence. The application of Restorative Justice is possible because fatal traffic crimes are generally characterized by negligence (*culpa*), not intent (*dolus*). This implementation has a normative basis through Police Regulation Number 8 of 2021. However, its application still takes into account the element of culpability, the response of the victim's family, and the social impact of the incident. Therefore, Restorative Justice in this case does not eliminate criminal liability, but rather shifts the form of accountability toward a more restorative orientation. The effectiveness of Restorative Justice in traffic cases resulting in death is conditional and highly dependent on the fulfillment of material and formal requirements. From a case resolution perspective, Restorative Justice has proven to expedite the handling process compared to conventional judicial mechanisms. From a substantive justice perspective, this approach provides a space for the victim's family to express their feelings of loss and obtain redress in the form of material compensation and an acknowledgement of the perpetrator's responsibility. From a social perspective, Restorative Justice contributes to maintaining social harmony, reducing the potential for further conflict, and supporting the social reintegration of perpetrators. Therefore, Restorative Justice can be considered effective as an alternative resolution for fatal traffic cases as long as it is implemented professionally, transparently, and accountably.

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