

Implementation of Handling Traffic Violations by School Children From a Restorative Justice Perspective

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Abstract. *The mechanism for handling traffic violations by children can be converted from the criminal justice process to extrajudicial processes. Therefore, the application of restorative justice principles in the context of traffic violations by schoolchildren is highly relevant to study, to ensure that law enforcement remains effective without compromising the fundamental rights and legal protection of the younger generation. This study aims to identify and analyze the handling of traffic violations by schoolchildren from a restorative justice perspective, as well as the inhibiting factors in the implementation of restorative justice in handling traffic violations by children and their solutions. The method used in this study is the empirical juridical legal method. The specifications in this study are descriptive and analytical. The data used are primary and secondary data. The data analysis is qualitative. The problems are analyzed using the theory of law enforcement and restorative justice. The results of this study indicate that: Handling traffic violations committed by school children requires an approach that is not only punitive, but also educational and restorative. Considering their status as students, the legal process must ensure that their rights to education and future are not interrupted and look at the nature of Child Protection and the Principle of Restorative Justice that Handling traffic violations involving school-age children must be viewed as the principle of the best interests of the child, where the criminal justice system is no longer oriented towards retributive justice, but rather towards the restoration of justice (restorative justice) in order to ensure the continuity of children's educational rights and Inhibiting Factors in the Implementation of Restorative Justice Handling Traffic Violations by Children can be seen from the Psychological and Social Conditions of Children who are still in the process of finding their identity often trigger risky behavior.*

Keywords: *Children; Restorative Justice; Schools; Traffic; Violations.*

1. Introduction

Traffic behavior issues are a common phenomenon in major cities in Indonesia, particularly in East Java. These issues are often linked to the growing urban population, which has led to increased activity and congestion on the roads. The diverse traffic flow and the rapid increase in vehicle numbers, due to the demands of community activities and the lack of public infrastructure, have resulted in various traffic problems, such as congestion and traffic accidents. Traffic accidents remain a serious problem that remains unaddressed.¹ However, accidents involving road users on the highway occur not only due to technical matters, but also due to low driver discipline in traffic. Crowding in front of the white dividing line at traffic lights, and some running red lights when the opportunity arises. These things are a daily sight on the streets. Not to mention turning where there are signs that prohibit turning, against the flow of traffic, going against the flow of traffic on one-way streets, and crossing sidewalks provided for pedestrians. Furthermore, although there is a requirement to wear a helmet, it is easy to find motorcyclists without one. Good quality helmets have been proven to save motorcyclists' lives in accidents or collisions.² The right to prosecute prohibited and punishable acts lies with the state apparatus, namely the public prosecutor.³ This deviant act is a real threat to social norms and rules because these norms are the foundation of life within citizens in creating social order. If left unchecked, it can lead to individual and social upheaval and constitute a concrete or potential threat to the existing social order. Criminal acts are not only a social problem, but also a humanitarian one.⁴

For Article 1 number 1 of Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection, "A child is a person who is not yet 18 (eighteen) years old, including those who are still in the womb." Meanwhile, in Article 1 paragraph (3) of Law No. 11 of 2012 concerning the Juvenile Justice System, "a child in conflict with the law, hereinafter referred to as a child, is a child who is 12 (twelve) years old, but not yet 18 (eighteen) years old, who is suspected of committing a crime."⁵ Regarding the negligence or carelessness of

¹M Firman Zulfan, Jamil, 2024, Criminal Liability for Underage Drivers in Traffic Accidents in the East Java Police Area, *Judiciary (Journal of Law and Justice)*, Vol. 13 Issue. 1, Issn (1858-3865), Jurnal Judiciary Vol. 13 Issue. 1. Pg.

²<https://ejournal.fh.ubhara.ac.id/index.php/Judiciary/Article/Download/235/217/952>

³Yusran Muhdar, St. Fatmawati, L., La Ode Muhram, 2024, The Role of the Southeast Sulawesi Regional Police Traffic Unit in Improving Traffic Discipline (A Study at the Southeast Sulawesi Regional Police Traffic Directorate), *Southeast Sulawesi Law Review*, Vol. 06, No. 2 2024, Pp. 3517 Issn: 2685-208x <https://jurnal-unsultra.ac.id/index.php/Sulrev/Article/View/1168/819>

⁴Teguh, Prasetyo, *Criminal Law*, Jakarta: Rajawali Pers, 2012, p. 1.

⁵Supriyadi, Determination of Criminal Violations, in *Special Criminal Law. Legal Forum*, Vol 27, No 3, October 2015, p. 10.

⁶Dewi, Criminalization of Children as Perpetrators of Criminal Acts, Case Study of Criminal Case Number 07/Pid-Sus-Anak/2017/Pn.Pdg, *Jurnal Cendekia Hukum*: Vol. 4, No. 2, March 2019, P.188.

drivers who have accidents and cause other people to die, Law Number 22 of 2009 concerning Traffic and Road Transportation is regulated in Article 310 paragraph (4). The provisions in this article are as follows: "Any person who drives a motorized vehicle who, due to his negligence, causes a traffic accident resulting in the death of another person, is threatened with a maximum prison sentence of 6 (six) years and/or a fine of IDR 12,000,000.00 (twelve million rupiah)"

The causes of traffic negligence include vehicle factors, road factors, human factors, and natural factors. Of these four factors, human factors are the primary cause of high traffic accidents. Therefore, good traffic awareness is essential for the public, especially those of productive age.⁶ Traffic violations cannot be ignored because based on existing data, most traffic accidents are caused by human factors, such as road users who do not comply with traffic regulations, but there are still many causes beyond human factors, such as flat tires, brake failure, potholes, and others. Likewise, the problem of traffic congestion, that data must show that congestion occurs because of violations committed by road users. However, there are other factors that cause congestion besides traffic violations, such as high vehicle volumes through certain road sections, road conditions, inadequate road infrastructure, and others.⁷The offense becomes the criterion for determining which court has jurisdiction, as it was before, since now all cases are tried by district courts. However, there are differences in the way they are tried.⁸

This is like what happened in the case of a student hitting 11 motorbikes and 2 cars in Bekasi where a student with the initials MH (16) hit 11 motorbikes and 2 cars in Bekasi City and the student did not have a driving license. The accident began when MH was driving the car in the Tarumajaya area, Bekasi Regency. There he grazed a number of motorbikes. Then the Yaris car stopped to take responsibility, from the motorbike there were 3 people approaching the car so that the car was scared. Feeling scared, MH then ran away to Kranji. From there, he ran to Bekasi Station and hit a number of vehicles again. Instead of stopping, MH continued driving. Until finally he hit a Honda Brio car at the Becakayu Toll Gate. Arriving at the Becakayu Toll Gate, a Brio car stopped while a transaction was being hit from behind so that the total accident of the student hitting 11 motorbikes and 2 cars in Bekasi City.⁹Then another case, namely, suspected of losing control while driving a Honda CRV, a young man was arrested by the

⁶Rekyan Ayu Nawang Wulan, Tegar Harbriyana Putra, Purwadi, Legal Review of Traffic Negligence Crimes Causing the Loss of Other People's Lives in the Jurisdiction of the Boyolali Police (Case Study in the Jurisdiction of the Boyolali Police), *Jurnal Bedah Hukum*, Vol.4, No.1, April 2020.

⁷Alam, AS And Amir, Ilyas, *Intermediary Criminology*, Makassar: Pustaka Reflection Books, 2010, Plm10.

⁸Moeljatno, 2015, *Principles of Criminal Law*, Ninth Edition, Jakarta: Pt. Rineka Cipta, p. 79.

⁹ <https://News.Detik.Com/Berita/D-7296142/Kasus-Pelajar-Tabrak-11-Motorcycles-And-2-Cars-In-Bekasi-Berakhir-Peacefully> Accessed on January 30, 2026 at 20.13 WIB.

police unit. Accident East Bandung at the Ujungberung Police Sector, Bandung City. How could it not be, due to losing control, he hit two other cars, four motorcycles, and a street vendor on Jalan Golf Raya, Cisaranten Wetan Subdistrict, Bandung City. Not stopping there, A continued his vehicle in a state of panic and hit four more motorcycles and a street vendor selling batagor and lotek food. After that, he hit a concrete fence owned by residents and could no longer escape anywhere. "As a result, there were injuries in this incident. One motorcyclist, and two children who were passengers in the Suzuki Karimun car," he said. The injured motorcyclist has reportedly returned to his residence. Meanwhile, the other victims were taken to the Bandung City Regional General Hospital on Jalan Rumah Sakit, Ujungberung, Bandung City.¹⁰ This is in line with data as recorded at the National Police Education Center (Pusiknas Polri) as many as 32.60% of approximately 536,391 drivers in traffic accidents are aged 16-21 years. This is in line with recorded case data. Traffic violation cases committed by children recorded at the West Java Regional Police in the period 2024-2025 were 19,035. This is a decrease from 2023 as many as 42,547 cases of traffic violations committed by minors.¹¹

Reviewing the cases in this study, it is clear that the implementation of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) is present as a progressive solution by prioritizing the Restorative Justice approach. Then in the provisions of Article 112 of the Republic of Indonesia Law Number 1 of 2023 concerning the Criminal Code, it states that Article 112 Children who commit crimes that are threatened with imprisonment of under 7 (seven) years and are not repeat offenders must be diverted. Furthermore, in the provisions of Article 113 paragraph 3, it states that children under 14 (fourteen) years of age cannot be sentenced and can only be subject to action. In these provisions, criminal law with harsh sanctions is said to have a subsidiary function, meaning that if other legal functions are lacking, then criminal law is used. It is also often said that criminal law is the ultimum remedium or last resort.

This principle no longer emphasizes retaliation, but rather restoration of the situation, reconciliation between perpetrators and victims, and moral responsibility without having to go through a traumatic judicial process. Therefore, the mechanism for handling traffic violations by children can be shifted from the criminal justice process to an extrajudicial process. Therefore, the application of the Restorative Justice principle in the context of traffic violations by school children is very relevant to study, to ensure that law enforcement continues to run effectively without sacrificing basic rights and legal protection for the younger generation. Therefore, researchers are

¹⁰<https://Jabar.Idntimes.Com/News/Jawa-Barat/Tanpa-Izin-Orang-Tua-Pemuda-Bandung-Kendarai-Mobil-Dan-Celaka-00-Dzkhf-Pf0513> Accessed on April 1, 2026 at 16.00 WIB.

¹¹ https://pusiknas.polri.go.id/web_pusiknas/laporan/1748856863675.pdf p. 47.

interested in conducting research with the title "Implementation of Handling Traffic Violations by School Children from a Restorative Justice Perspective."

2. Research Methods

The method is a basic process regarding the procedure for finding a solution to a problem, while research is a careful examination of signs in order to obtain human knowledge, so the research method can be interpreted as the basis for the procedure for finding a solution to existing problems in carrying out research related to the Implementation of Handling Traffic Violations by School Children in a Restorative Justice Perspective. The Sociological juridical approach or so-called field research is to examine the applicable legal provisions and what happens in reality in society.¹²

3. Results and Discussion

3.1. Handling of Traffic Violations by School Children in Restorative Justice Perspective

Traffic accidents are often caused by various factors, including human error. Research shows that human error can be categorized into two main types: recognition error and decision error. Recognition error occurs when a driver fails to recognize a situation or condition on the road, while decision error occurs when a driver makes an incorrect decision despite correctly recognizing the situation. Overall, data shows that human error plays a crucial role in the majority of traffic accidents. Therefore, efforts to reduce accidents should focus on improving driver behavior and skills through education, training, and stricter law enforcement.¹³

The view that legal proceedings must be carried out and enforced impartially (rule of law and law enforcement), because "negligence" which includes the crime of culpa/negligence, namely when driving a vehicle that causes an accident, must still be processed legally. Diversion is the answer to the goal of resolving juvenile cases fairly. However, implementing diversion requires certain requirements. Diversion can only be carried out by considering the child's age, the nature of the act, whether it is a first-time offense or a repeat offense, being applied to minor crimes, having the victim's consent and the agreement of the parties, and the community's willingness to support the diversion process.

Frequent traffic violations have become commonplace among both the public and schoolchildren. Therefore, when traffic enforcement operations are

¹²Mukti Fajar and Yulianto Achmad, 2010, *Dualism of Normative and Empirical Legal Research*, Yogyakarta: Pustaka Pelajar, p. 175.

¹³Mohammad Reza Setiawan, 2025, *Analysis of Human Error Factors in Traffic Accidents and Their Legal Responsibility*, Vol. 2 No. 2, *Decisio: Scientific Journal of Law*, ISSN 3047-0013, P.50. <https://jurnallppm.iblam.ac.id/index.php/decisio/article/download/33/28/184>

conducted on the highway by the authorities, many are caught in traffic violation cases, and these violations often lead to traffic accidents. Considering the principles of child protection, especially the principle of prioritizing the best interests of children, a process for resolving children's cases outside the criminal mechanism, commonly known as diversion, is necessary. Therefore, diversion, especially through the concept of Restorative Justice, is a very important consideration in resolving criminal cases committed by children.¹⁴

Traffic violations have become a serious problem affecting various groups, including school children who are under age and should still be under parental supervision when driving motorized vehicles.¹⁵ Traffic violations are also a growing social problem, involving many age groups, including underage schoolchildren. This phenomenon shows that it's not just adults who break the rules of the road; children and adolescents are also involved. Schoolchildren who commit traffic violations not only put themselves in danger but also endanger the safety of other road users. As more children choose to ride motorcycles for transportation to school due to their efficiency, avoid delays, cost savings, and ease of mobility, the number of traffic violations and accidents involving children as perpetrators or victims increases. Accidents are generally caused by human error.¹⁶ Traffic violations committed by minors can also lead to accidents and even fatalities, which constitutes criminal negligence or culpa. This is undoubtedly detrimental to many parties, as children continue to have legal repercussions, both as victims and perpetrators.¹⁷

Child protection requires greater attention, as the reality is that many cases of child rights violations persist. This is evident in the numerous cases of child neglect, child abuse, and even child murder. There needs to be firm legislation and cooperation between the government and society to protect children, as children are the responsibility of all of us as human beings, regardless of their biological parents.¹⁸

¹⁴Ni Made Ayu Lia Angraeni, 2021, Diversion as a Form of Case Resolution for Children Who Commit Traffic Violations, *Badamai Law Journal*, Lambung Mangkurat University, Volume 6, Issue 1, p. 114

¹⁵Andi Herman Yusuf. "Traffic Violations Committed by Schoolchildren Reviewed from the Aspect of Legal Sociology," *Vifada Assumption Journal of Law*, Volume 1 Issue 2, ISSN: 2987-1263, 2023, pp. 1–9 <https://jurnal.vifada.id/index.php/law/article/download/34/39>

¹⁶Ikhwan Listiyanto et al., "The Authority of the Indonesian National Police in Reducing Traffic Accidents on Toll Roads," *Jurnal Usm Law Review* 4, no. 1 (2021): 300, <https://doi.org/10.26623/julr.v4i1.3333>.

¹⁷Muhammad Ridwan Lubis and Panca Sarjana Putra, "Criminalization of Children in Conflict with the Law," *USM Law Review Journal*, Vol 4 No 1, 2021, e-ISSN: 2621-4105, p. 226. <https://journals.usm.ac.id/index.php/julr/article/view/3354>

¹⁸Nopiana Mozin, Maisara Sunge, "Providing Education and Legal Assistance to Child Victims of Violence", *Jurnal Ius Constituendum* 6 (1), 2021, pp. 166-181. <https://journals.usm.ac.id/index.php/iic/article/view/2485>

Restorative justice Philosophically, it has a foundation contained in the fourth and fifth principles of Pancasila, which have an essential meaning regarding the values of deliberation and justice. Pancasila as the ideology and way of life of the Indonesian nation¹⁹It serves as a guide for all activities in every area of life. Pancasila is positioned as a prismatic proposition or a counterweight to the legal system of the noble values that have grown and taken root in the Indonesian nation.²⁰Restorative justice in Indonesian criminal law is an approach that emphasizes restoring relationships between victims, perpetrators, and communities affected by crime. This approach focuses on reparation for the harm suffered by victims, the perpetrator's responsibility to correct mistakes, and community involvement in the conflict resolution process. Understanding and implementing the restorative justice law enforcement paradigm conceptually, theoretically, and practically is challenging. This is because numerous obstacles hinder its implementation and the pursuit of just law enforcement.²¹

Restorative justice This is considered a new way of thinking about a crime committed by an individual. This is due to the high number of children in conflict. Arrest, detention, investigation, and inquiry fall under the authority of the police in the implementation of the juvenile criminal justice system. In implementing diversion in juvenile criminal justice, the police are granted discretionary power from investigations. The main principle of diversion is persuasive action and providing an opportunity for individuals to correct mistakes. The purpose of diversion in the Criminal Justice System Law is to:

- a. Achieving peace between victims and perpetrators;
- b. Resolving children's cases outside the judicial process;
- c. Protecting children from deprivation of liberty;
- d. Instilling a sense of responsibility in children.

The diversion agreement must obtain the consent of the victim and/or the victim's child family, as well as the child and their family's willingness. This indicates that there must be active participation from the victim and their family in the diversion process so that the recovery process can be achieved in

¹⁹Anang Dony Irawan, "The Impact of the Pandemic on Creating Socioeconomic Inequality Between State Officials and the Public," *Journal of Citizenship Virtues*, 2.1 (2022), 251–62 <https://doi.org/https://doi.org/10.37640/jcv.v2i1.1184>.

²⁰Achmad Hariri, "Deconstruction of Pancasila Ideology as a Form of Legal System in Indonesia," *Adjudication: Journal of Legal Studies*, 3.1 (2019), 1–14, <https://doi.org/https://doi.org/10.30656/ajudikasi.v3i1.1055>.

²¹Zulkarnein Koto, "Implementation of Restorative Justice in Handling Criminal Acts to Achieve Just Law Enforcement," *Journal of Police Science* 17, no. 1 (2023): 17, <https://doi.org/10.35879/jik.v17i1.389>.

accordance with restorative justice. The provisions of juvenile criminal justice procedures follow criminal procedural law as regulated by the Criminal Code, where the stages of the judicial process include: investigation, arrest and detention, prosecution, and examination by the judge. There are three types of diversion program implementation, namely:

- a. Implementation of social control (social control orientation)
- b. Social services by the community towards the perpetrator (social service orientation)
- c. Towards a process of restorative justice or negotiation (balanced or restorative justice orientation)

Restorative justice differs from the retributive approach, which emphasizes punishment as a form of retribution against perpetrators. In Indonesia, this concept is increasingly relevant and important to implement, given the cultural diversity and long-standing local wisdom values that are an integral part of community life. Restorative justice is not actually a principle; it is a philosophy of justice and the judicial process. Because restorative justice forms the foundation of judicial institutions, it is referred to as a philosophy of justice.²² One example of resolving a criminal act can be done through a restorative justice approach in a criminal mediation forum in a mediation room with the aim of restoration for the perpetrator, victim, and their family if the conditions/criteria for restorative justice have been met, such as that the perpetrator has admitted his actions, witnesses and the victim's family want to forgive, and the perpetrator has never been convicted.²³

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, restorative justice for minors in Indonesia focuses on a more humane and rehabilitative approach. This approach prioritizes out-of-court settlements by involving various parties, including the child, family, victim, community, and authorities. During this process, children are not only held accountable for their actions but also given the opportunity to improve themselves without having to face lengthy legal proceedings that can negatively impact their future. It is crucial for community educators, investigators, prosecutors, judges, and advocates to prioritize the best interests of children when handling cases involving children. When reporting cases involving children, confidentiality is crucial, especially for

²²Arsya Yustisia Zahra et al., "Restorative Justice Approach as an Alternative to Resolving Corruption Crimes," *USM Law Review Journal* 6, no. 3 (2023): 1250, <https://doi.org/10.26623/julr.v6i3.6758>.

²³M Nanda Setiawan et al., "Resolving Criminal Acts Through Restorative Justice Mechanisms in the Muara Bungo Jurisdiction," *Rio Law Journal* 4, no. 1 (2023): 51–65, <https://doi.org/https://doi.org/10.36355/rlj.v4i1.1026>.

those who are witnesses or victims.²⁴After the Diversion agreement is reached, the Diversion Agreement Letter is signed by the Child and/or parent/guardian, Investigator, and Community Guidance Officer. The Investigator then submits the Diversion Agreement Letter and the Diversion minutes to the Investigator's immediate superior within a maximum of 3 (three) days from the date the Diversion agreement is reached. The Chief Justice of the District Court issues a Diversion agreement determination and simultaneously determines the status of the evidence within a maximum of 3 (three) days from the date of receipt of the Diversion Agreement Letter and 57 Diversion minutes. The Investigator asks the parties to implement the Diversion agreement after receiving the determination from the Chief Justice of the District Court. Normatively, the implementation of Diversion will result in 2 (two) things, namely successful agreement and unsuccessful agreement. Diversion has been officially recognized as part of the restorative justice mechanism, but Diversion in the SPPA Law prioritizes the peace factor between victims of criminal acts and Children in conflict with the law. In addition, the Diversion process can only be carried out if the crime is threatened with a sentence of less than 7 years in prison and is not a repeat offense. In practice, the implementation of diversion often encounters obstacles because the implementation of diversion is a practice of resolving disputes with children that has only recently been implemented in the legal process.

3.2. Inhibiting Factors in the Implementation of Restorative Justice in Handling Traffic Violations by Children and Their Solutions

Handling children in conflict with the law is part of crime prevention policies and efforts, as the primary goal is child protection and welfare, as children are part of society. These policies and efforts are essentially an integral part of social defense and social welfare efforts.²⁵The police force plays a crucial role in maintaining security, order, and law enforcement in society. One of its functions is to monitor, assist, protect, and enforce the law against violations, including traffic violations, to prevent and prosecute violations, and to provide protection to the public.²⁶ Most traffic accidents are caused by human error and negligence. Drivers' ignorance of traffic regulations is the main cause of these accidents, in addition to the bad personal character of drivers or riders such as wanting to win alone, not caring about others so that others suffer because of it,

²⁴Yosep Tarantung et al., "Investigator Diversion in Resolving Child Criminal Cases Through Restorative Justice," *Journal Juridisch* 1, no. 1 (2023): 205–15, <https://doi.org/http://dx.doi.org/10.26623/jj.v1i3.7947>.

²⁵Nawawi, Barda Arief, 2012, "Anthology of Criminal Law Policy", PT Citra Aditya Bakti, Bandung, page 2

²⁶Ryanto Ulil Anshar and Joko Setiyono, "The Duties and Functions of the Police as Law Enforcers from a Pancasila Perspective," *Indonesian Legal Development Journal* 2, no. 3 (2020): 359–72, <https://doi.org/10.14710/jphi.v2i3.359-372>.

besides that another cause is the desire to make as much profit as possible even if it means harming others.²⁷

Today's society demands faster, easier, and more affordable alternative solutions that avoid complicated legal processes. One alternative considered effective is restorative justice, which aims to reduce procedural burdens while providing certainty for both victims and perpetrators. This approach focuses on restoring relationships between the parties involved, prioritizing reconciliation over punishment. However, although restorative justice approaches have been implemented in several regions, their implementation has not fully met expectations. One major obstacle is the lack of clear regulations, such as a law specifically addressing restorative justice in the context of road traffic accidents. Case resolution by law enforcement agencies also shows fundamental differences, depending on the type of traffic accident that occurred and whether the case can be handled with a restorative approach. Furthermore, a lack of public understanding of the law, the high number of traffic accidents and their resulting casualties, and the practice of peaceful resolution without involving law enforcement officers still persist.²⁸

This responsibility falls to the Traffic Unit or Satlantas in handling traffic violations. The main task of Satlantas is to carry out traffic police operations to enforce traffic law and order, especially law enforcement against traffic violations committed by minors riding motorcycles. The function of Satlantas in law enforcement is to ensure compliance with the provisions of Law Number 22 of 2009. The police as law enforcement officers are authorized to handle all consequences arising from violations and impose sanctions in accordance with statutory provisions. Law enforcement must be carried out firmly and without exception, with the hope of providing a deterrent effect on the community, especially young people who obey traffic regulations.²⁹ The phenomenon of traffic violations by children in Indonesia often places children in a dilemma between compliance with retributive traffic regulations in Law No. 22 of 2009 and the protection of children's human rights which are rehabilitative in nature in Law No. 11 of 2012 (the SPPA Law). Although the principle of *ultimum remedium* has been mandated, the implementation of restorative justice at the Satlantas investigation level is still often hampered by the absence of rigid operational standards regarding compensation parameters, so that children's diversion rights are often reduced by subjective demands from the victim.

²⁷Marjan Miharja. 2019. *Diversion and Restorative Justice in Handling Traffic Accidents*. Qiara Media. Pasuruan. Pg. 5.

²⁸Aris Rahmawan, 2025, *Restorative Justice in Traffic Accident Cases in an Effort to Create Justice*, Begawan Abioso (Volume 16, Number 2, P-ISSN: 1858-2990 P. 50. <https://ejournal.hukumunkris.id/index.php/abioso/article/download/1232/320/3621>

²⁹Irham Fatwa, Zainuddin Zainuddin, and Kamri Ahmad, "The Effectiveness of Law Enforcement Against Minor Motor Vehicle Drivers," *Journal of Lex Theory (JLT)* 5(2) (2024): 799–815. <https://garuda.kemdiktisaintek.go.id/documents/detail/4448659>

"Dogmatically, the obstacles to the implementation of restorative justice in child traffic accident cases are rooted in a rigid interpretation of Article 7 paragraph (2) of the SPPA Law. The cumulative requirements regarding the threat of imprisonment under seven years and not being a repetition of the crime are often interpreted textually without considering the sociological background of the child (results of the BAPAS Community Research). Furthermore, cultural obstacles in the form of a paradigm of retaliation (*lex talionis*) which is still dominant in society cause diversion mediation to often end in a dead end if an agreement on material compensation is not reached."

The application of restorative justice to children in traffic violations is a legal requirement, not an option for authorities. The main obstacle that often arises is the conflict between the victim's desire for revenge and the child's future. The strongest legal solution is to tighten oversight of Article 7 of the Child Protection and Child Protection Law; if authorities fail to pursue diversion, they can be subject to administrative sanctions. Sociologically, the success of restorative justice depends heavily on the active role of parents and the community in guiding children after the incident, so that the law's function as a social engineering tool to create order can be achieved without sacrificing children's human rights.

Traffic accident cases are processed through criminal justice procedures in accordance with applicable laws and regulations, namely Law Number 22 of 2009 concerning Traffic and Road Transportation. This is stated in Article 230, however, ambiguity often occurs in the resolution of traffic accident cases. Some traffic accident cases are resolved through the judicial process and some are resolved without going through a legal process on the grounds that both parties have reconciled. Based on the Regulation of the Chief of the Indonesian National Police Number 15 of 2013 concerning Procedures for Handling Traffic Accidents, it states that; Only minor traffic accidents can be resolved outside the courtroom. The out-of-court settlement of minor criminal cases can be resolved without going through the legal process and can also be called a restorative justice approach.

The main principle of resolving criminal acts through a restorative justice approach is a solution that must be able to penetrate the hearts and minds of the parties involved in the resolution process in order to understand the meaning and purpose of carrying out a restoration and the form of sanctions applied are sanctions that are restorative or preventative in nature.³⁰

The crime committed by the child is actually a minor crime, for adults the crime is only threatened with a maximum of five years' imprisonment or a maximum of

³⁰Sarwirini. (2014). Implementation of Restorative Justice in Tax Law Enforcement. *Jurnal Yuridika*. 29(3), 380–396.

one year's imprisonment, so that children are threatened with a maximum of half the threat of adults. Seeing the meaning of the principle of ultimum rimidium adopted in Indonesia that against the threat of punishment can be taken other efforts, then this can be eliminated. Efforts to resolve crimes committed by children are not only carried out through law enforcement efforts alone, but also through the application of restorative justice which is different from the conventional criminal justice system, where this application emphasizes the direct participation of perpetrators, victims and the community in the process of resolving criminal cases.³¹ Mistakes and violations committed by children are not only unlawful acts that disrupt public security and order, but also constitute a danger that threatens a nation because children are the young generation who will continue the ideals of the nation's struggle in the future, so that one solution that can be done in handling child criminal cases is the application of restorative justice which is carried out by means of diversion. The application of restorative justice is a resolution process carried out outside the criminal justice system by involving victims, perpetrators, families of victims and perpetrators, the community and parties interested in a crime that occurs to reach an agreement and resolution.

Police Discretionary Authorization allows for diversion of cases involving juveniles. Discretion is the authority held by the police to terminate a case investigation by releasing a juvenile suspect, or to conduct diversion to avoid further legal proceedings. Diversion can be defined as the unconditional diversion of cases involving juveniles suspected of committing crimes from the formal process. The Child Trafficking Law (SPPA) also requires all law enforcement officers to resolve cases involving juveniles as perpetrators of traffic crimes through restorative justice (diversion at all stages of law enforcement).

4. Conclusion

1. Handling Traffic violations committed by school children require an approach that is not only punitive, but also educational and restorative. Considering their status as students, the legal process must ensure that their rights to education and future are not interrupted and look at the nature of Child Protection and the Principle of Restorative Justice that Handling traffic violations involving school-age children must be viewed as the principle of the best interests of the child, where the criminal justice system is no longer oriented towards retaliation (retributive justice), but rather towards the restoration of justice (restorative justice) in order to ensure the continuity of children's educational rights, where the status of school children who commit traffic violations (both administrative violations and accidents) is considered as a subject who is still in the stage of psychological development. 2. Inhibiting Factors in the Implementation of

³¹Jonlar Purba. 2017. Law Enforcement Against Minor Crimes with Restorative Justice. Jala Permata Aksara. Jakarta. P. 55.

Restorative Justice in Handling Traffic Violations by Children are evident in the Psychological and Social Conditions of Children, who are still in the process of discovering their identity, often triggering risky behavior. This is exacerbated by low awareness of driving safety. Taking Information and Protecting Children Many children, Lack of Traffic Rules Education, Limited Special Diversion Facilities for Traffic Accidents, Discrepancies in Witness Statements in the Field There are discrepancies and the solution lies in strengthening community participation as the main supporter in the reintegration process, so that traffic violations by children are resolved by providing space for children to atone for their mistakes in real ways, such as through community service or driving safety education, which is philosophically more effective in preventing recidivism than conventional criminal sanctions which tend to isolate children from their social environment.

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