



## Juridical analysis of traffic accident resolution using restorative justice at the Serang City Police Station

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### ABSTRACT

Most Indonesian people use transportation, accidents often occur on the highway, there is a lack of public awareness of traffic, which results in accidents. The public must understand and obey traffic regulations properly. This research aims to analyze or examine the legal norms and regulations of restorative justice at the Serang City Police in completing deliberations between traffic accident victims, to examine the obstacles to implementing restorative justice in traffic accident cases. In this research, which I carried out directly, I used an empirical juridical research approach, namely taking data sources using a direct approach using observations and interviews at the Serang City Police Station. and uses primary data sourced from statutory regulations, as well as data from secondary legal materials including other expert opinions, journals of several expert opinions, and tertiary legal materials. Restorative justice is the implementation of a deliberative settlement outside of court. In resolving a traffic accident case that caused serious injuries at the Serang City Police, the perpetrator wanted to resolve it peacefully, through deliberation by providing guarantees to the victim with the aim of restoring the situation. The conclusion of this research is the implementation of restorative justice at the Serang City Police by means of a deliberative settlement outside of court between the perpetrator and the victim or the victim's family so that the perpetrator provides guarantees to restore the victim.

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### 1. Introduction

Indonesia has a very large population, so transportation equipment is really needed. Transportation is the movement of people or goods from one place to another using a vehicle that is moved by a human-operated machine (Mariyam & Suryoutomo, 2021). Problems in transportation at the moment are traffic violations, the number of accident cases in our country are road accidents, almost every year the number always increases, this happens every year,

causing many victims, both injured victims and even causing the death of the victim (Ferimon et al., 2021).

Due to the lack of public awareness of traffic laws, this causes accidents. The public should have awareness regarding traffic as it should be (Hasibuan, 2014). When driving a vehicle on the highway, obey traffic regulations, for example obeying traffic signs, speed is not too high when driving against the perpetrator while driving, undesirable things happen and ultimately result in a fatal accident (Supriyadi et al., 2023). There needs to be legal awareness from the driver when traveling on the highway, such as obeying the rules of the law (Usman, 2014). Among other things, such as obeying traffic signs, not driving recklessly, this needs to be instilled in every driver, whether two-wheeled or four-wheeled, in order to reduce accidents in traffic on the highway.

Munawar said that traffic accidents that often occur are caused by several factors, including fatigue, drowsiness, lack of caution, recklessness and boredom experienced by drivers. The cause of this factor, whether using private vehicles or public transportation, is because the vehicle driver or vehicle infrastructure does not meet standards. There are other factors that influence accidents due to human factors/human error (Diversi et al., 2023). Crimes in criminal law can be restored. What we know as restorative justice, the perpetrator is required to compensate for the losses caused by the perpetrator to the victim, family and society (Nugraha et al., 2022). Restorative justice is seen as very necessary by the community in resolving criminal law in traffic because traffic accidents do not have an element of intent on the part of the driver or the victim, so it is hoped that a resolution will be achieved through discussion (Akbar, 2023).

Restorative justice focuses on healing victims rather than punishing perpetrators through legal proceedings. the aim is to collect (recover) losses from crime victims (Prayuda et al., 2022). Traffic accidents as one of the criminal cases of course carry penalties. Perpetrators of traffic crimes can be sentenced to imprisonment or a fine according to the provisions of Article 10 of the criminal law and traffic regulations. Traffic accidents are not intentional but rather negligence. So it cannot be said to be pure evil, but it is a criminal act without a motive, no one wants an accident to occur, so it can be said that a traffic accident is a criminal act without a motive. Therefore, criminal accidents cannot be treated the same as other criminal acts, which are generally handled harshly in the legal process.

Handling of traffic accident cases provides an opportunity for both parties or parties, including the perpetrator and the victim, to discuss finding a solution outside of court by negotiating in an effort to restore the losses suffered by the victim with mediation by the police (Sidiq et al., 2023). In an effort to resolve things outside of court, the Serang City Police provide the opportunity for broadest possible discussion and negotiation for the *pikak* to find a win-win solution to achieve a sense of justice (Sahti, 2019).

Police regulations regulate it as a reference that can be used as a resolution in cases of inquiry and investigation processes to ensure legal certainty. It regulates the termination of investigations (SPP-Lidik) and termination of investigations (SP3) based on the provisions of restorative justice law, apart from that, in the application of restorative justice, investigators can carry out investigations before sending a notification letter of commencement of investigation (SPDP) to the Prosecutor (Peraturan Polri Nomor 8 Tahun 2021 Tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif (Restorative Justice), n.d.). Restorative justice is a non-litigation settlement which is the resolution of criminal cases outside of court, together with those who have an interest in finding a solution to try to end the incident after the crime occurred and how address the implications (Y. Nugroho & Pujiyono, 2022).

Restorative justice can also be applied to seek resolution of cases without going to court (settlement out of court is the same as ongoing court proceedings) known as Alternative Dispute Resolution (ADR) (Vinet & Zhedanov, 2011). is an alternative action for settlement outside of court in settlement efforts that prioritize win-win solutions. To be used to end

disputes in court proceedings (Yusuf, 2016). The implementation of restorative justice in the Serang city area is really needed by the community, especially in light cases that need to be resolved outside the court with a win-win solution in Police Serang city. There were 536 accident cases that occurred at the Serang City police station with material losses reaching approximately Rp. 765,950,000. In resolving cases, there are several efforts made by Serang City Traffic Police to resolve or follow up on accident cases, one of which is using Restorative Justice (RJ) resolution (Wahyu et al., 2022). Paragraph (4) "Serious traffic accidents as referred to in paragraph (1) letter c are accidents that result in the death or serious injury of the victim." Paragraph (5) "Traffic accidents as intended in paragraph (1) can be caused by road user negligence, vehicle negligence and road/or environmental negligence." In the description above, the researcher analyzed to conduct a study using Restorative justice solutions. At the Serang City Police Station.

Based on the background above, the researcher formulated the following: How is restorative justice applied in resolving traffic accident cases that cause victims to suffer serious injuries at the Serang City Police Traffic Unit and what are the obstacles to implementing restorative justice in resolving traffic accident cases. Research purposes. Based on the background above, the purpose of writing this article is how to apply restorative justice in resolving traffic accident cases that result in victims suffering serious injuries at the Serang City Police Traffic Unit and what are the obstacles to implementing restorative justice in resolving them. traffic accident cases.

## **2. Method**

This research uses an empirical juridical approach to support this method with various efforts to search for secondary data needed in the research. The direct study or research method at the Serang City Police regarding the application of restorative justice and the literature method is to take an inventory of secondary liberal research data and then carry out qualitative analysis of the data by interviewing the police handling the case to obtain accurate and accountable data which is then used in writing. including secondary legal materials which are binding legal materials obtained from law books, laws and others, empirical juridical research to analyze how police regulations are applied in implementing restorative justice in resolving accident cases in Pores, Serang City.

## **3. Analysis and Results**

### **3.1. Implementation of Restorative Justice in Settlement of Traffic Accident Cases causing serious injuries to victims at the Serang City Police Station**

Restorative justice resolution in traffic accident cases focuses on deliberation, because accidents are not intentional but are unexpected disasters that are not wanted by anyone, so this should not be resolved by the police using a deliberative approach, restorative justice does not violate criminal law. The implementation of a restorative justice settlement in the jurisdiction of the Serang City Police, the solution only focuses on restoration of the victim, not punishment of the perpetrator, with mediation and deliberation between the victim and the perpetrator to find a common ground that can reach a peace agreement without having to proceed to the legal process. , because the traffic accident occurred not because of the perpetrator's wishes but rather an accident that the perpetrator did not expect and did not expect if an accident happens (B. H. Nugroho, 2023).

In efforts to resolve traffic accidents in the police, investigators will notify and make settlement offers outside of court or through restorative justice to the victim or with the victim's family and to the perpetrator (Chalisna et al., 2023). If both parties agree, the investigator will determine a time and place for deliberation or mediation. Investigators have an important role in the agreement, until a compromise agreement is reached. In order to reach an agreement, it must be based on the awareness of both parties concerned (Efendi et al., 2022).

The out-of-court mediation process in resolving traffic accidents must focus on the victim's losses so that they are properly compensated. If the mediation process reaches an agreement between the two parties, the investigator must formulate the results of the deliberation in a clear and detailed form in the form of an agreement (Zuleha, 2018). Criminal cases in Restorative must have at least three criteria as follows: (Waluyo, 2020). Determine the steps that must be taken to repair the loss or damage (identify and take steps to repair harm) involve all parties who have an interest) transform the pattern of the state and society in dealing with criminals with criminal sanctions, becomes a model of cooperative relationship between the perpetrator and the victim to resolve problems resulting from crime.

Based on the results of interviews with Aipda Muhamad Luki Marluki, SH., as the Serang City Police Traffic Unit, the application of Restorative Justice can be carried out when both parties have found a common ground for deliberation and compensation for the perpetrator to the victim because this is considered fair for both parties, so there is no need to proceed to court. However, if it causes the victim to die, this cannot be done using restorative justice and the process must continue as it should (Hadi, 2023). And the main thing in implementing restorative justice is that there is an agreement between the two parties, from the victim's side there is a demand, then the perpetrator can fulfill the demand until an agreement is reached so that the two can make peace because the demand has been fulfilled and until the victim feels fair because of his request. has been fulfilled and the perpetrator also feels fair because they have the ability to take responsibility (Ferimon et al., 2021). The results of the agreement are finalized at the police station and witnessed by the police, the families of both parties and if there is a lawyer along with their lawyer. The process of handling restorative justice is the same as usual, receiving the report and then examining the witnesses. During the examination and investigation process, if there is a meeting point between the two parties, then restorative justice can be implemented. And if there is no common ground then the case will be transferred to the prosecutor.

**Table 1.** Data on Traffic Accident Cases for 2020-2021 at Serang City Police Traffic

Year	Sum Laka Then	Number of Victims			Material Losses	Taste
		MD	LB	LR		RJ/ADR
2020	242	114	13	269	Rp. 373.450.000	169
2021	294	130	13	309	Rp. 392.500.000	235
Total	536	244	26	578	Rp. 765.950.000	404

Source: Primary data, 2021 (Edited).

In the table, traffic accidents and total number of traffic accident cases at the Serang City Police in 2020-2021, it can be seen that out of 242 traffic accident cases in 2020, 169 cases were resolved through a restorative justice approach and in 2021 that out of 294 traffic accidents 235 cases were resolved through a restorative justice approach. There are a total of 22 cases that are still in process, which is likely due to several factors that are in the process, namely: Because the incident occurred during a hit-and-run traffic accident and the rider fled.

### **3.2. Obstacles in Implementing Restorative Justice in Resolving Traffic Accident Cases That Cause Victims to Suffer Serious Injuries**

Resolving restorative justice outside of court in Serang City has obstacles which are handled by the police. Among other things, the problem is that the victim's family does not want to resolve it through deliberation, secondly. The community in the settlement wants to use traditional institutions as a solution, and thirdly the victim asks for very high compensation so that the perpetrator does not confess, this is what causes a restorative justice settlement in Serang Kota Police is experiencing obstacles and obstacles that the community should want to resolve by resolving restorative justice at the Muswarah Police to make peace.

Apart from the obstacles and constraints of Serang City Police Traffic Police investigators, the obstacle faced in using criminal mediation is legal certainty. However, the panel mediation was

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carried out by Serang City Police investigators. there are communities through customary institutions or others. Meanwhile, up to now, panel mediation has not been concretely regulated, but this is only known at the discretionary law enforcement level (Daulay et al., 2022). What is an inhibiting factor in resolving traffic accident cases is when the victim hopes to ask for compensation that is too high, which makes the perpetrator not want to grant his wish and unable to make peace, and the victim's family does not agree with the implementation of restorative justice, because the victim's family thinks there is a lack of justice. towards the victim (Widodo et al., 2020).

Based on the results of an interview with Aipda Muhamad Luki Marluki, SH, as the Serang City Police Traffic Unit, obstacles to resolution caused serious injuries to the victim, namely when the victim did not want to carry out deliberations in material form in accordance with the results of the parties' agreement. If an agreement is not reached, it will be handled according to applicable law. In this way, investigators are making efforts to overcome obstacles to the implementation of restorative justice for traffic criminals with serious injuries and provide input to leadership, ratifying restorative justice as a way of resolving traffic accident cases, with this it is hoped that there will be a sense of justice, for reasons which is more humane by prioritizing a sense of justice according to a deep conscience (A. S. Nugroho & Nadzir, 2023).

So it can be concluded that the victim who has been harmed by a criminal act must be given the authority to resolve the criminal act that befell him. This authority is based on resolving cases quickly through peace. The victim is given two choices. Firstly, if the victim has the intention to make peace and forgive the perpetrator, restorative justice is applied and the victim can play an active role. Second, if there is no intention to make peace on the part of the victim, then the criminal case falls under the full authority of law enforcement officials or the police while still paying attention to the losses suffered by the victim. In this way, a balance between the perpetrator and the victim can be achieved fairly. In law enforcement it is not always rigid but there must be a sense of justice. The law aims to achieve justice so that when justice is achieved there is no need for court proceedings, apologies and compensation has created balance, even though it is not regulated in statutory provisions.

#### **4. Conclusion**

Studying the description above, the researchers limited this research to focus on cases of traffic accidents which resulted in victims suffering serious injuries at the Serang City Police Station. And the next research will examine it further with a wider measurement in the Banten Regional Police. the researcher concludes that the implementation of restorative justice is a solution outside of court. With restorative justice, cases are resolved through peaceful negotiations between the perpetrator and the victim in the police. The reason for resolution using restorative justice is through the media or deliberation with the victim and perpetrator to find a way of peace that is fair for both of them and accompanied by the police and also the victim and perpetrator accompanied by a lawyer or their family as witnesses. The perpetrator must be responsible for the losses received by the victim, because the aim of restorative justice is to provide compensation to the victim and restore the victim based on mutual agreement. The implementation of handling traffic accident cases that do not cause major consequences, for example causing the victim to suffer serious injuries, needs to be considered as a solution because the aim of progressive law is to create harmony and restore balance in social relations. The obstacle to implementing restorative justice at the Serang City Police is when the victim's family is not willing to complete peace efforts using restorative justice and the victim is too high in asking for compensation from the perpetrator because they feel that the victim has suffered a lot. detrimental, then the police continue the legal process at court level. to the perpetrator. So the police see the need for a restorative justice approach that respects each other and brings awareness between victims and perpetrators so that differences of opinion do not occur in the future. Restorative justice is justice that prioritizes family deliberation between the victim and the perpetrator to agree peacefully, deliberation to reach a consensus to obtain justice.

Based on the conclusions above, the author provides suggestions for parties The police in charge of traffic rights should appeal to the public against traffic accidents by holding social events to prevent an increase in traffic accidents and the police or law enforcement officers must be more effective in implementing restorative justice and the need to increase public awareness to be more compliant with traffic regulations to avoid accidents Also when driving, people are advised to always be careful.

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