

Criminal Law Enforcement of Motor Vehicle Drivers in Traffic Accidents Resulting in Deaths

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ABSTRACT

Traffic accidents resulting in fatalities continue to increase in Indonesia, making it a serious problem that requires special attention in law enforcement. This research explores law enforcement against drivers who cause fatal accidents, based on Law No. 22/2009 on Road Traffic and Transportation. This law requires formal legal resolution through criminal justice for serious accidents, but there are differences with Police Regulation No. 8 of 2021 which allows a Restorative Justice approach for similar accidents, including those resulting in fatalities. This normative research analyzes the alignment of the two regulations and evaluates the application of Restorative Justice as an alternative solution. The results show that the application of Restorative Justice often clashes with formal criminal provisions, so harmonization of regulations is needed so that law enforcement is more consistent and does not neglect the rights of victims and the interests of justice for the community. With the harmonization of laws, it is expected that the police will have a clearer legal basis in handling traffic accident cases in a humanist and comprehensive manner.

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INTRODUCTION

Road traffic and transportation play an important role in promoting national development and integration. As part of the transportation system, traffic not only supports economic growth and regional development, but also contributes to the general welfare as stipulated in the 1945 Constitution of the Republic of Indonesia. To regulate and supervise traffic operations and maintain the security and safety of road users, the Indonesian government enacted Law No. 22/2009 on Road Traffic and Transportation.

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This regulation authorizes the police to enforce the law and manage various aspects of traffic, including vehicle registration, driver identification, and traffic accident investigation. However, in reality, the problem of traffic accidents still occurs frequently and has a significant impact, including the death of road users. Traffic accidents in Indonesia have increased from year to year, so the role of law enforcement is crucial in enforcing rules that can provide a deterrent effect and legal certainty for the community.

According to Article 1 point (24) of the Traffic Law Number 22 Year 2009, a traffic accident is an event that occurs on the road, which is unexpected or unintentional, involves vehicles or road users, and causes casualties or material losses. These types of accidents vary from minor to severe, and have different legal consequences according to their severity. The law also stipulates that accidents that result in fatalities require resolution through the criminal justice process.

Law No. 22/2009 together with Government Regulation No. 80/2012 provide the basis for the police to take responsible legal action against traffic violations. One of the roles of the police is to apply discretion or certain policies for law enforcement in the field of traffic. This discretion allows police officers to determine the appropriate action or approach, especially in cases that require restorative justice. As explained in Article 16 and Article 18 of Law No. 2 of 2002 on the Police, this discretion provides room for the police to act according to their judgment in the framework of public interest. However, discretion can only be exercised within certain limits and in accordance with applicable laws and regulations, so as not to neglect the expected principle of legal certainty.

Restorative justice is an approach that is gaining increasing attention in the handling of criminal cases in Indonesia. This approach emphasizes efforts to restore the condition of the victim and the community, instead of focusing only on punishment for the perpetrator. In the context of traffic accidents, restorative justice allows for out-of-court settlements through mediation between the perpetrator and victim or victim's family. This approach is regulated in Police Regulation No. 8 of 2021 on Handling Crimes Based on Restorative Justice, where law enforcement prioritizes the recovery of conditions for all affected parties. This regulation provides an opportunity for the police to resolve traffic accident cases in a more humane manner, especially for minor accidents that do not cause fatalities. However, in accidents that cause death, stricter legal considerations are still required.

Based on the above background, this study aims to answer two main questions: 1) What is the law enforcement process against motor vehicle drivers who cause death in traffic accidents? 2) How is the restorative justice perspective applied by the traffic police in handling traffic accident cases that result in death, especially in providing protection for victims and suspects?

This research aims to analyze the law enforcement process against motor vehicle drivers involved in traffic accidents that result in death, and explore the application of the restorative justice approach by the police in this case. This research is expected to provide a comprehensive perspective for academics, legal practitioners, and the wider community regarding legal approaches that balance the interests of victims, perpetrators, and society.

Research Type

The type of research used in this research is Normative research is research conducted based on legal literature materials, namely primary, secondary and tertiary. Primary literature material is binding legal material. Secondary legal materials are materials that provide explanations or instructions on primary materials. Tertiary legal materials are materials that provide instructions and explanations for primary and secondary legal materials. (Soekanto & Mamudji, Normative Legal Research, 2012).

Nature of Research.

This research includes prescriptive analysis research. Prescriptive analysis research is research that aims to provide a description or formulate problems in accordance with existing circumstances or facts. (HS & Nurbani, 2013). By using analysis perspective research, researchers try to provide an overview and formulate related problems and facts as well as to get suggestions on what to do in the problem of dividing inheritance property to children of underhand marriage according to Islamic law and civil law.

Research Type.

This research uses a type of statute approach in an event under study, namely by using vertical and horizontal synchronization types. In research on the level of vertical and horizontal synchronization, what is examined is the extent to which the existing written positive laws that are still in force are in harmony with each other. This research aims to find out the provisions of existing written positive law that are in harmony with or support each other. Research on legal synchronization can be vertical and horizontal. Vertical means that a legislation applicable to a certain field of life does not contradict each other seen hierarchically. Horizontal means that a regulation of legislation that is equal in position and regulates a certain field of life. (Sunggono, 2013)

Types and Sources of Legal Materials.

There are three (3) legal materials used in this research, namely as follows:

1. Primary Legal Materials consisting of:
 - a. Constitution of the Republic of Indonesia Year 1945;
 - b. Law of the Republic of Indonesia Number 8 of 1981 concerning the Criminal Procedure Code;
 - c. Law of the Republic of Indonesia Number 2 of 2002 concerning the Indonesian National Police;
 - d. Law Number 22 of 2009 concerning Road Traffic and Transportation;
 - e. Government Regulation of the Republic of Indonesia Number 80 of 2012 concerning Procedures for Checking Motor Vehicles on the Road and Enforcement of Road Traffic and Transportation Violations;
 - f. Regulation of the Chief of the Indonesian National Police Number 6 of 2019 concerning Criminal Investigation;
 - g. Regulation of the Indonesian National Police Number 8 of 2021 concerning Handling Crimes Based on Restorative Justice;

2. Secondary Legal Materials, namely literature, legal journals, research results, and legal articles related to the subject matter in this study.
3. Tertiary Legal Materials consist of Legal Dictionaries and Indonesian Language Dictionaries and the Internet.

Legal Material Collection Techniques.

The collection of legal materials carried out in this research is through literature studies to obtain primary legal materials and secondary legal materials in the form of laws and regulations, books, articles and journals related to the object of research Processing and Analysis of Legal Materials.

The legal materials collected will be analyzed normatively qualitatively, namely by discussing and describing the legal materials obtained based on legal norms or legal principles relevant to the subject matter. Then the data in the form of legal materials that have been obtained are presented in the form of narrative text, descriptions that are arranged systematically, logically, and rationally. In the sense that all the data obtained will be connected to one another adjusted to the subject matter under study so that it is a unified whole.

RESULTS AND DISCUSSION

Law Enforcement Process Against Motor Vehicle Drivers Causing Death in Traffic Accidents

Law enforcement against motor vehicle drivers involved in traffic accidents that result in death has been expressly regulated in Law Number 22 Year 2009 on Road Traffic and Transportation. Based on Article 229 and Article 230 of this law, traffic accidents that result in death are categorized as serious accidents, which must be processed through a criminal justice mechanism. This legal arrangement aims to ensure that every serious accident that occurs on the highway receives an appropriate legal settlement, both for the victim and the perpetrator.

The legal process in serious accidents involves several stages that are carried out by law enforcement officials, especially the police, to ensure that the regulations are comprehensively enforced. This process includes:

1. Inquiry and Investigation Stage: In cases of accidents that result in fatalities, the first stage involves investigation and inquiry by the traffic police. As the primary responders at the scene, the traffic police are responsible for securing the scene, collecting preliminary evidence, and identifying the parties involved. The investigation includes an examination of the vehicles involved, road conditions, weather, and other factors affecting the accident. The initial investigation aims to obtain an initial picture of the accident and explore the possibility of negligence or fault factors committed by the driver.

After the initial investigation, the police conduct an investigation to determine whether there are criminal elements in the accident. At the investigation stage, an examination of witnesses, surviving victims, and the drivers involved is conducted. This examination aims to gather the facts and legal evidence needed to strengthen the allegation of a criminal offense.

2. Prosecution and Trial: If the results of the investigation indicate that the driver committed negligence or an offense that caused the death, the case will be forwarded to the prosecution

stage by the prosecutor. Under the Criminal Procedure Code, the trial process in court aims to ensure that all evidence has been verified, testimonies have been presented, and the court can assess the degree of fault committed by the driver. During the trial, the judge considers legal evidence, such as forensic results, police reports, and witness testimonies to give an appropriate verdict.

The prosecution in this serious traffic accident case is also based on the criminal provisions in Article 310 of Law Number 22 Year 2009. Based on this provision, if the accident results in the death of the victim, the perpetrator may be subject to a maximum imprisonment of six years and a maximum fine of twelve million rupiah. In addition, the law requires the perpetrator to provide material compensation to ease the burden on the victim or the victim's heirs. This includes assistance with medical or funeral expenses that does not invalidate criminal charges.

3. Implementation of the Verdict: After the trial, if the court finds the driver guilty, the verdict will be implemented by the authorities. The perpetrator is required to serve the criminal sentence imposed, whether in the form of confinement or a fine, in accordance with the provisions of the law. If there is an obligation to compensate the victim or the victim's family, the offender is also required to fulfill this provision as part of the recovery process for the victim.

This systematic law enforcement process shows that criminal law in Indonesia has covered aspects that ensure that perpetrators of traffic accidents with fatal consequences are criminally and morally responsible to the victims or their heirs. In addition to being a legal instrument, this process also aims to provide legal certainty, justice, and benefits for victims and their families. This shows a balance between law enforcement functions and recovery efforts for victims and related parties.

Law Enforcement by Traffic Police in the Perspective of Restorative Justice for Victims or Families of Accident Victims and Suspects

In the midst of legal development in Indonesia, the Restorative Justice approach is becoming an alternative that is increasingly considered in law enforcement, especially in certain cases, including traffic accidents. Restorative Justice is a case resolution approach that focuses on restoring the losses suffered by victims, perpetrators, and the community. This approach is considered capable of creating a more humane solution than simply placing the perpetrator in the prison system or imposing a formal sentence without resolving the impact experienced by the victim.

The Restorative Justice approach in traffic law enforcement is regulated through Police Regulation Number 8 of 2021 concerning Handling Crimes Based on Restorative Justice. This provision provides room for the police to consider out-of-court settlements in certain traffic accident cases, especially when both parties agree to reconcile. In the context of traffic accidents that cause death, the police can apply the Restorative Justice approach if the perpetrator does not show an element of intent, there is a request for peace from the victim's family, and other conditions that have been regulated in the regulation.

The implementation of Restorative Justice in traffic accident cases includes several main steps, among others:

1. **Mediation:** The traffic police act as mediators to bring the offender and the victim's family together in a peaceful atmosphere. The main objective of mediation is for the two parties to dialogue and agree on a fair settlement for the victim and the perpetrator. In the mediation process, the perpetrator is expected to show remorse and good faith to correct the mistakes that have been made. This mediation not only provides an opportunity for the victim to express the impact they have felt, but also gives the perpetrator the opportunity to take responsibility for their actions.
2. **Restitution and Compensation:** Restitution in the context of Restorative Justice is an effort to restore the rights of the victim through the provision of compensation from the perpetrator. In the case of traffic accidents, restitution can be in the form of assistance with medical expenses, compensation for material losses, or other agreed forms of financial support. Restitution is a form of perpetrator accountability to the victim that aims to ease the burden borne by the victim's family. In certain cases, the provision of restitution can be a motivating factor for an amicable agreement between the victim and the perpetrator.
3. **Peace Agreements:** One of the outcomes of the Restorative Justice approach is a written peace agreement between the offender and the victim or the victim's family. This agreement is made in the presence of a law enforcement officer, who ensures that the contents of the agreement are voluntarily agreed by both parties and do not contradict the applicable laws. An amicable agreement may include restitution, an apology, and a commitment by the perpetrator not to reoffend. In many cases, these agreements are a means to avoid further criminal proceedings, without overriding the rights of the victim.
4. **Monitoring the Implementation of the Agreement:** Once an amicable agreement has been reached, the police play a role in overseeing the implementation of the agreement. The police ensure that the perpetrator fulfills the commitments in the agreement, such as providing compensation or other support to the victim's family. This supervision is necessary so that legal certainty and justice are still achieved even though the settlement is carried out through Restorative Justice.

Restorative Justice in traffic accident cases that result in death faces several challenges, including differences in understanding between the perpetrator, the victim's family, and the community regarding the concept of justice in Restorative Justice. Often, people expect formal criminal punishment for the perpetrator, so the Restorative Justice approach is considered as an "excuse" for the wrongdoing of the perpetrator. However, with good socialization and active involvement from the police, the Restorative Justice approach can be accepted as a humane mechanism in resolving unintentional accident cases.

In addition, another challenge faced is the application of discretion by the police to determine cases that deserve resolution through Restorative Justice. The wide discretion of law enforcement officers allows for differences in handling in the field, which can lead to perceptions of injustice. Therefore, there needs to be clear guidance on the limits of discretion in the application of Restorative Justice, as well as adequate training for police officers in using this approach wisely.

From a legal perspective, the application of Restorative Justice in traffic accidents that cause death can provide benefits in several ways. First, it provides more inclusive and direct justice for the victim's family, with the victim receiving restitution or support that is not possible

through the criminal process alone. Secondly, the Restorative Justice approach has the potential to reduce the caseload in the courts, which generally requires a long time and high costs. Third, Restorative Justice can be a means for perpetrators to learn responsibility and realize the impact of their actions, making it more effective in fostering legal awareness.

However, the application of Restorative Justice in traffic accident cases that result in death still requires careful handling. Law enforcement officials must be careful not to allow the Restorative Justice process to become a tool for perpetrators to avoid legal sanctions that should be undertaken. Therefore, the policy of implementing Restorative Justice must be understood as a recovery effort that does not replace the criminal law mechanism, but as a solution that prioritizes the balance between justice for victims, legal certainty, and benefits for the wider community.

With wise application, Restorative Justice has the potential to be an effective approach in law enforcement against fatal traffic accidents. This approach, in addition to emphasizing the humanist aspect of law enforcement, also reflects the value of substantive justice that pays attention to the recovery of all parties involved. Restorative Justice is expected to make a positive contribution to the development of law in Indonesia, especially in presenting a legal system that is more inclusive and oriented to the needs of the community.

CONCLUSION

Criminal law enforcement by the traffic police in cases of accidents resulting in death is regulated in Law No. 22/2009 on Road Traffic and Transportation. According to this law, out-of-court settlements are only allowed for minor traffic accidents that cause damage to vehicles or goods. Meanwhile, accidents that result in serious injury or death must be resolved through criminal justice. However, this provision is not in line with Police Regulation No. 8 of 2021 on Handling Crimes Based on Restorative Justice which allows out-of-court settlements even for serious accidents that cause injuries or death. This discrepancy results in different approaches in the application of the law, especially when the police use the Restorative Justice approach to stop the investigation of serious accident cases. On the other hand, the application of Restorative Justice by the traffic police as an alternative to settling traffic cases without trial is of interest to the public. However, this approach is not yet fully compliant with the formal provisions in the Traffic Law, which can be considered as a deviation because it is based on subjective judgment. Therefore, clearer and firmer rules are needed to direct law enforcement in accordance with the legislation. To address this discrepancy, it is recommended that an alignment be made between Law No. 22 of 2009 and Police Regulation No. 8 of 2021. With this alignment, the police are expected to face no hesitation in applying Restorative Justice in serious traffic accident cases. This adjustment will provide more consistent guidance in law enforcement. In addition, changes are needed in the Traffic Law to include Restorative Justice procedures as one of the official mechanisms in traffic law enforcement. A more specific regulation on Restorative Justice will clarify the role of the police and avoid conflicts with existing laws and regulations, so that a more humanist legal approach that is in line with the needs of society can be realized.

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