Reconstruction Of Restorative Justice-Based Settlement Of Traffic Accident Offences

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ABSTRACT

The approach to resolving criminal offences of traffic accidents in Indonesia has so far relied on a conventional criminal justice system that is oriented towards punishment. This approach often ignores victims' needs for recovery and opportunities for perpetrators to take constructive responsibility. This research aims to reconstruct a restorative justice-based traffic accident criminal settlement model, which emphasises dialogue, rapprochement and fair solutions for all parties involved. Using juridical-normative and juridical-empirical approaches, this research analyses existing regulations and legal settlement practices, as well as evaluates the potential of restorative justice implementation. The results show that restorative justice provides a great opportunity to create settlements that are more humane, inclusive, and in accordance with the local values of Indonesian society. The mediation process between offenders and victims, which is formally recognised in the justice system, is a key element in this model. The reconstruction of this model offers various benefits, such as victim recovery, reducing the burden on the justice system, and strengthening social harmony. However, its implementation requires adequate regulatory support, training for law enforcement officials, and education to the public. With these strategic steps, the application of restorative justice can be an effective solution in resolving traffic accidents, while reflecting the values of social justice in Pancasila.
Keywords: Traffic Accidents, Restorative Justice, Mediation, Social Restoration, Law Reform

Introduction

Transport plays a very important role in modern life, especially in supporting the mobility of people and goods from one region to another(Mačiulis et al., 2009; Vella-Brodrick & Stanley, 2013). However, the increasing need for transport along with population growth and community activities brings negative impacts, one of which is the high number of traffic accidents (Gao & Zhu, 2022; Kopits & Cropper, 2005; Poumanyvong et al., 2012; Waygood et al., 2017). These accidents not only cause material losses, but also casualties and complex legal conflicts.

According to data from the Indonesian National Police, traffic accidents annually claim thousands of lives, with an average of dozens of people dying every day (Narendroputro & Rusfian, 2023). In addition, these accidents result in thousands of serious and minor injuries, as well as significant economic losses. This problem is not only the responsibility of law enforcement, but also requires a comprehensive and equitable solution for all parties involved.

Currently, the handling of traffic accidents in Indonesia is largely conducted through a conventional criminal justice system that is oriented towards punishment(Fina et al., 2022; Rona et al., 2020; RUSLAN RENGGONG et al., 2023; Setiadi et al., 2023). This approach often neglects the recovery of victims and the reintegration of perpetrators into society. For example, prison sentences for perpetrators often do not resolve the underlying conflict between victims and perpetrators, thus not providing an adequate sense of justice.

The urgency of this research lies in the need to present a new approach that can overcome the weaknesses of the conventional criminal justice system, especially in the context

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of traffic crimes. Punishment-focussed responses often fail to address the main needs of victims, such as psychological and material recovery, and fail to reintegrate offenders back into society. On the other hand, restorative justice approaches that have been implemented in various countries have proven to be able to provide more comprehensive solutions. By involving victims, perpetrators and the community, this approach not only resolves legal conflicts but also repairs social relationships damaged by criminal offences.

In the Indonesian context, the restorative justice approach is also relevant because it is in line with local values, such as deliberation and consensus contained in Pancasila (Budisetyowati et al., 2023; Hamzani et al., 2023; Rochaeti & Muthia, 2021; Syah & Purwoleksono, 2023). However, the application of this approach still lacks clear regulations and standards, so research is needed that can reconstruct a restorative justice-based settlement model in a measurable and applicable manner.

To date, there is no settlement model specifically designed for traffic crimes that integrates a restorative justice approach. In fact, traffic accident cases have unique characteristics, such as direct involvement between perpetrators and victims as well as a wide impact on society. Legal uncertainty in the settlement of these cases, especially in relation to out-of-court settlement agreements, suggests the need for a more structured and consistent legal model.

This research fills the gap by formulating a model of traffic accident criminal settlement based on restorative justice approach. This model is expected to not only provide justice for victims and perpetrators, but also serve as a guideline for law enforcement to handle cases in a more humane and effective manner.

This research aims to contribute to the development of the criminal law system in Indonesia by examining and reconstructing a model of traffic accident criminal settlement based on a restorative justice approach. The main objective of this research is to analyse the weaknesses and challenges in the current traffic accident case settlement mechanism, which tends to be conventional and focused on punishment. Through this approach, the research is expected to develop a settlement model that is more humane, fair, and oriented towards restoring social relations between victims, perpetrators, and society. With this model, the perpetrator is given the space to be directly responsible to the victim through a mediation process, while the victim gets the opportunity to get recovery, both psychologically and materially.

Methods Research

This research uses juridical-normative and juridical-empirical approaches to provide a comprehensive understanding of the settlement of traffic accidents based on restorative justice (Barus, 2023; Diansyah et al., 2021; Noor, 2023). The juridical-normative approach is conducted through a study of relevant laws, legal doctrines and theories, while the juridical-empirical approach involves observation of legal practices in the field and interviews with relevant parties, such as law enforcement officials, victims and perpetrators. This research is descriptive-analytical, which aims to describe in detail the current condition of traffic accident criminal settlements and analyse them in the context of restorative justice theory. The data used in the research includes primary legal materials, such as Law No. 22/2009 on Road Traffic and Transport, secondary legal materials in the form of academic literature and results of previous research, and tertiary legal materials, such as legal encyclopedias. Data collection was conducted through literature studies, in-depth interviews, and direct observation in several strategic locations, such as district courts and police stations. The data collected was analysed qualitatively to obtain an overview of the ideal traffic accident criminal settlement model. This research also utilises a contextual approach to understand how local wisdom and

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Pancasila values can support the implementation of restorative justice in Indonesia's criminal law system.

Result and Discussion
Current Condition of Traffic Accident Crime Settlement

The settlement system for traffic accidents in Indonesia still relies heavily on litigation mechanisms through the conventional criminal justice system(Diansyah et al., 2021; Rona et al., 2020). This process begins with investigation by the police, followed by prosecution by the prosecutor, until the trial stage in court. This model is rooted in the retributive approach, which focuses on imposing sanctions on perpetrators as a form of retribution for violations of the law.

In practice, this approach presents several challenges. One of the most striking is the lack of flexibility in resolving cases amicably, especially in cases that could be resolved through alternative mechanisms such as mediation. Empirical data shows that the majority of traffic accident cases end with court decisions that impose punishment on the perpetrator, without providing adequate space for the victim's recovery, both psychologically and materially.

Although in some cases there has been an amicable agreement between the perpetrator and the victim, the legal process is often continued due to the absence of a clear legal basis to stop the case based on the agreement. This has led to dissatisfaction among the community as it does not reflect justice, especially for victims who actually need healing more than just punishment for the perpetrator.

One of the main reasons for this is the lack of a comprehensive understanding among law enforcers of the importance of more inclusive approaches, such as restorative justice. In addition, existing regulations have not provided adequate guidance on the application of restorative justice principles in traffic accident cases. As a result, despite the Chief of Police Circular Letter No. SE/8/VII/2018 on the Application of Restorative Justice, its implementation in the field is still very limited and varied.

The impact of this rigid litigation approach is not only felt by perpetrators and victims(Prasetyono, 2022), but also by the justice system as a whole. The high number of cases to be handled by the courts means that resources are limited and the resolution process often takes a long time. This adds to the mental burden on victims and perpetrators, and reduces the efficiency of the criminal justice system.

Current conditions also show a gap between the social values of Indonesian society, which tend to prioritise deliberation and consensus, and the formalistic approach of the legal system. In many cases, communities prefer a resolution that restores social relations rather than simply punishing the perpetrator. However, this preference is often hindered by a rigid legal system that is less responsive to local needs.

As such, the current state of traffic accident criminal settlements requires in-depth evaluation and the development of alternative approaches that better suit the needs of society. This approach must be able to accommodate victim recovery efforts, provide space for perpetrators to take responsibility, and reduce the overall burden on the justice system.

Restorative Justice-Based Settlement Reconstruction

Restorative justice-based traffic accident settlement reconstruction offers an alternative approach that is more humanist and inclusive than conventional criminal justice mechanisms (Prasetyono, 2022). This approach aims not only to punish the perpetrator, but also to restore social relations damaged by the criminal offence and provide space for the perpetrator and victim to reach a mutually beneficial agreement.

In this model, the mediation process is an important first step. Mediation allows the perpetrator and victim to meet directly, either independently or with facilitation from law

enforcement officials. Through mediation, the perpetrator can acknowledge his or her wrongdoing and compensate the victim, while the victim has the opportunity to express her needs, both materially and emotionally. This process not only resolves the conflict, but also rebuilds trust between the two parties.

The outcome of the mediation then needs to be formally recognised in the justice system. This recognition ensures that the agreement reached has legal force, so that it can be used as a basis for stopping the case at the investigation or prosecution stage. With this step, peaceful settlements are not only morally valuable but also provide legal certainty for all parties involved.

The role of law enforcement officials, such as police, prosecutors and judges, is crucial in supporting the implementation of this approach. They need to be trained to understand the principles of restorative justice and act as neutral facilitators in the mediation process. This training aims to ensure that mediation takes place in a fair and effective manner, without any party feeling disadvantaged.

However, not all traffic accident cases can be resolved through mediation. Therefore, clear criteria are needed to determine the suitability of a case for restorative approaches. For example, cases with material losses and no element of gross negligence are more appropriate for mediation than cases involving loss of life or other serious offences.

This approach should also consider the local values that exist in Indonesian society. The use of customary mechanisms or the involvement of community leaders as mediators can strengthen the legitimacy of the mediation process. This approach not only increases community acceptance of restorative justice, but also enriches the national legal system with elements of local wisdom.

Overall, restorative justice-based reconstruction offers significant benefits (Amarini et al., 2024). Victims can be restored materially and psychologically, perpetrators are given space to take responsibility constructively, and the burden on the justice system can be reduced. In addition, this approach helps to strengthen social relations in communities, prevent prolonged conflict, and create harmony. However, implementation challenges, such as lack of supporting regulations and unpreparedness of law enforcement officers, need to be addressed through strategic policies and comprehensive education.

With this approach, the resolution of traffic accident crimes will not only be a tool to enforce the law, but also a means to rebuild harmonious social relations in accordance with the values of Pancasila and Indonesian culture.

Conclusion

This research confirms that the traffic accident criminal settlement system in Indonesia, which is still oriented towards the conventional litigation approach, has many limitations. This approach tends to ignore the victim's need for recovery and does not provide space for the perpetrator to be constructively responsible. As a result, conflicts arising from traffic accidents are often not fully resolved, both from a legal and social perspective. Restorative justice-based settlement reconstruction offers a more humane and effective solution. This approach prioritises mediation between the perpetrator and victim, with the aim of reaching a mutually beneficial agreement. This process not only provides reparation for the victim but also encourages the offender to take direct responsibility. With formal recognition of mediation outcomes in the justice system, this approach can provide legal certainty while reducing the burden on the criminal justice system. This model is in line with the local values of Indonesian society, such as deliberation and consensus, and supports the principle of social justice in Pancasila. With proper implementation, this approach not only fulfils legal needs but also strengthens social harmony in society.

Suggestion And Recommendation

Based on the research results, to optimise the application of restorative justice in the settlement of traffic accidents, several strategic steps need to be taken. Firstly, there needs to be clear and comprehensive regulations to support this approach. These regulations should include mediation procedures, recognition of agreements, and mechanisms for terminating cases based on successful mediation. This will provide a strong legal basis for the implementation of restorative justice and ensure legal certainty for all parties involved. Secondly, law enforcement officials, such as police, prosecutors and judges, need to receive specialised training to understand and implement the principles of restorative justice. With an in-depth understanding, law enforcement officers can act as neutral and effective facilitators in mediation, ensuring the process runs fairly and professionally. In addition, empowering local mechanisms, such as involving community leaders or customary institutions, can strengthen the legitimacy of the mediation process. This approach not only increases community acceptance of restorative justice but also enriches the legal system with relevant local values. Public education is also an important element. Through socialisation programmes, communities can better understand the benefits and mechanisms of restorative justice as an alternative to legal resolution. This education aims to increase community participation and reduce resistance to approaches that may still be perceived as new. Finally, mediation outcomes need to be formally integrated into the criminal justice system. That way, the peace agreement not only has moral value but also the force of recognised law. This integration will give greater legitimacy to the outcome of the mediation, while ensuring that the settlement of the case is conducted in a fair and transparent manner. Through these steps, the application of restorative justice in the settlement of traffic accidents can provide a solution that is more effective, humane, and in accordance with the needs of Indonesian society. This approach is expected to answer the challenges of the current legal system while creating better social harmony.

Reference

Amarini, I., Samhudi, G. R., Mukarromah, S., Ismail, N., & Saefudin, Y. (2024). Social Reintegration after the Implementation of Restorative Justice in the Indonesian Criminal Code. *Jurnal Media Hukum*, *31*(1), 115–133. https://doi.org/10.18196/jmh.v31i1.20655

Barus, H. N. D. (2023). *Application of Restorative Justice in Case of Traffic Accident What Unage Children Do in the Legal Area of the Kudus Polres*. https://doi.org/10.2991/978-2-38476-074-9_31

Budisetyowati, D. A., Joko Sriwidodo, Rr. Dijan Widijowati, & Juanda. (2023). Mediation of Criminal Cases as an Effort to Settle Criminal Actions Based on Local Wisdom in Indonesia. *Journal of Law, Politic and Humanities*, *3*(4). https://doi.org/10.38035/jlph.v3i4.245

Diansyah, Supena, Gusti Ayu Ketut Rachmi Handayani, I., & Mashdurohatun, A. (2021). Construction of Village Judicial Institutions as an Alternative for Settlement of Minor Crime Based on Justice Value. *Scholars International Journal of Law, Crime and Justice*, *4*(2). https://doi.org/10.36348/sijlcj.2021.v04i02.005

Fina, A. A., Kaesmetan, R. M., & Tungga, A. F. (2022). Juridical Study on the Implementation of Restorative Justice by the South Central Timor Police on Traffic Violations. *Jurnal 45 Hukum*.

Gao, Y., & Zhu, J. (2022). Characteristics, Impacts and Trends of Urban Transportation. *Encyclopedia*, *2*(2). https://doi.org/10.3390/encyclopedia2020078

Hamzani, A. I., Aryani, F. D., Bawono, B. T., Khasanah, N., & Yunus, N. R. (2023). Non-Procedural Dispute Resolution: Study of the Restorative Justice Approach Tradition in Indonesian Society. *International Journal of Offender Therapy and Comparative Criminology*. https://doi.org/10.1177/0306624X231165425

Kopits, E., & Cropper, M. (2005). Traffic fatalities and economic growth. *Accident Analysis and Prevention*, 37(1). https://doi.org/10.1016/j.aap.2004.04.006

Mačiulis, A., Vasiliauskas, A. V., & Jakubauskas, G. (2009). The Impact Of Transport On The Competitiveness Of National Economy. *Transport*, 24(2). https://doi.org/10.3846/1648-4142.2009.24.93-99

Narendroputro, W., & Rusfian, E. Z. (2023). The Innovation Capacity of the Electronic Traffic Law Enforcement (ETLE) of the Indonesian National Police Viewed by the Observatory of Public Sector Innovation (OPSI) Framework. *Jurnal Public Policy*, 9(4). https://doi.org/10.35308/jpp.v9i4.7890

Noor, A. (2023). Socio-Legal Research: Integration of Normative and Empirical Juridical Research in Legal Research. *Jurnal Ilmiah Dunia Hukum*, 7(2). https://doi.org/10.56444/jidh.v7i2.3154

Poumanyvong, P., Kaneko, S., & Dhakal, S. (2012). Impacts of urbanization on national transport and road energy use: Evidence from low, middle and high income countries. *Energy Policy*, 46. https://doi.org/10.1016/j.enpol.2012.03.059

Prasetyono, L. (2022). The Problem of Diversion in Children Perpetrators of Traffic Violations in Indonesia. *Jambura Law Review*, 4(1). https://doi.org/10.33756/jlr.v4i1.11419

Rochaeti, N., & Muthia, N. (2021). Socio-legal study of community participation in restorative justice of children in conflict with the law in Indonesia. *International Journal of Criminology and Sociology*, 10. https://doi.org/10.6000/1929-4409.2021.10.35

Rona, M., Safa'at, R., Madjid, A., & Fadli, M. (2020). Restorative Justice In The Settlement Of Traffic Accident Causing Death Toll According To The Perspective Of Customary Judiciary In Sanggau District, West Kalimantan. *Yustisia Jurnal Hukum*, 9(1). Https://Doi.Org/10.20961/Yustisia.V9i1.39351

Ruslan Renggong Et Al. (2023). Restorative Justice Application On Traffic Accident Cases At The Makassar City Police Resort, Indonesia. *Russian Law Journal*, 11(3). https://doi.org/10.52783/rlj.v11i3.1238

Setiadi, A. K., Hasibuan, F. Y., & Maryano, M. (2023). Ideal Traffic Accident Crime Case Resolution based on Restorative Justice. *International Journal of Social Service and Research*, 3(5). https://doi.org/10.46799/ijssr.v3i5.383

Syah, B. E., & Purwoleksono, D. E. (2023). Ius Constituendum Restorative Justice in Indonesia. *Media Iuris*, 6(3). https://doi.org/10.20473/mi.v6i3.44405

Vella-Brodrick, D. A., & Stanley, J. (2013). The significance of transport mobility in predicting well-being. *Transport Policy*, 29. https://doi.org/10.1016/j.tranpol.2013.06.005

Waygood, E. O. D., Friman, M., Olsson, L. E., & Taniguchi, A. (2017). Transport and child well-being: An integrative review. *Travel Behaviour and Society*, 9. https://doi.org/10.1016/j.tbs.2017.04.005