

**Criminal Accountability and Restorative Justice
in Traffic Accidents that Result in the Death of the Victim (Research at the
Pematangsiantar District Court)**

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ABSTRACT

A traffic accident that results in the death of the victim is a legal event that causes criminal consequences for the perpetrator, especially if the incident occurred due to negligence. In law enforcement practice, the settlement of traffic accident cases is not always pursued through a repressive criminal approach, but can also be resolved through a restorative justice approach that emphasizes restoration and peace between the perpetrator and the victim's family. This study aims to analyze the form of criminal responsibility of the perpetrators of traffic accidents that resulted in the death of the victim and examine the application of restorative justice in the settlement of the case at the Pematangsiantar District Court. The results of the study show that the perpetrators of traffic accidents that resulted in the death of the victim can still be held criminally responsible based on the provisions of Article 310 paragraph (4) of Law Number 22 of 2009 concerning Road Traffic and Transportation and Article 359 of the Criminal Code.

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Introduction

Traffic accidents are one of the legal events that still occur frequently and cause a wide social impact in people's lives. The high mobility of the population, the growth in the number of motor vehicles which is not always balanced with increased traffic awareness, and limited compliance with safety standards are factors that contribute to the occurrence of accidents on the highway. In many cases, traffic accidents not only cause material losses, but also result in loss of human life, raising complex and sensitive legal issues.

From a criminal law perspective, traffic accidents that result in the death of the victim cannot always be separated from the element of fault of the driver of a motor vehicle. These mistakes are generally in the form of negligence, namely the failure to fulfill the legal obligation to act carefully in driving. Even though there is no element of intentionality, negligence that causes fatal consequences still has criminal consequences because it has

violated the norms of prudence set by law. Therefore, criminal law functions as an instrument to provide protection for the safety of road users while enforcing legal responsibility for the perpetrators of accidents.

However, the application of criminal law in traffic accident cases often faces dilemmas in practice. Punishment-oriented punishment for the perpetrator is not always in line with the expectations of the victim or the victim's family who prefer real accountability and recovery for the losses experienced. The formal and protracted criminal justice process also often creates a psychological burden for the parties, so that the goal of substantive justice is not fully achieved. This condition shows that the conventional penal approach has limitations in resolving traffic accident cases as a whole.

Along with the development of modern criminal law thinking, restorative justice approaches emerged as an alternative to criminal case resolution certain. Restorative justice places the perpetrator, victim, and society as the main subjects in the case settlement process with the aim of restoring the social balance disturbed by criminal acts. This approach does not eliminate the responsibility of the perpetrator, but encourages the perpetrator to be actively responsible for the consequences of his actions, both morally, socially, and legally. In the context of traffic accidents, restorative justice is seen as relevant because such events generally occur without malice, so settlements that emphasize restoration and peace can better reflect a sense of justice.

In Indonesia, the application of restorative justice has gained a normative basis through various policies and regulations issued by law enforcement agencies. However, the application of this approach in traffic accident cases that resulted in the death of the victim still raises debate, especially regarding the limits of criminal liability and legal certainty. On the one hand, the state has an interest in enforcing the law and providing a deterrent effect to prevent the recurrence of similar accidents. On the other hand, there is a need to make room for a more humane and recovery-oriented settlement, especially if the perpetrator shows good faith and the victim's family agrees to a peaceful settlement.

In judicial practice, especially in the District Court, judges have a strategic role in balancing legal certainty, utility, and justice. Judges are not only required to apply the provisions of the law normatively, but also to consider the social and humanitarian values that develop in society. Therefore, the application of restorative justice in traffic accident cases can reflect judicial efforts in realizing substantive justice that is not solely sentencing oriented.

Based on this description, studies on criminal liability and the application of restorative justice in traffic accidents that result in the death of victims are important to be carried out. This research is expected to make an academic contribution to the development of law criminal, as well as providing a practical overview of how the restorative justice approach can be applied proportionately without overriding the principles of criminal responsibility and legal certainty.

Method

This study uses a combination of normative juridical and empirical juridical research methods. A normative juridical approach is applied to examine the legal provisions that govern criminal liability and the application of restorative justice in the case of traffic accidents that result in the death of the victim. Normative studies are carried out through the study of relevant laws and regulations, legal doctrines, and court decisions, then analyzed systematically and rationally.

Meanwhile, an empirical juridical approach is used to understand how the legal provisions are applied in judicial practice. This approach aims to obtain a real picture of the implementation of legal norms, especially in the consideration of judges in handling traffic accident cases that lead to the death of the victim.

This research was carried out at the Pematangsiantar District Court Class I B, which is located at Jalan Sudirman Number 15, Proclamation Village, Pematangsiantar City, North Sumatra Province. The selection of the location was based on its relevance to the object of research, especially the existence of traffic accident cases that are the focus of the study in this study.

This study uses secondary data and primary data as data sources. Secondary data has a wide scope and is obtained from a wide range of literature and official documents related to the object of research. The legal materials used consist of:

- 1) Primary legal materials, namely laws and regulations, court decisions, and legal policies related to criminal liability and restorative justice in traffic accident cases that result in the death of the victim.
- 2) Secondary legal materials, which are materials that provide explanations and analyses of primary legal materials, in the form of legal textbooks, research results, journal articles, and other scientific publications.
- 3) Tertiary legal materials, which are supporting materials that function to help understand legal terms and concepts, such as legal dictionaries, general dictionaries, and legal encyclopedias.

To obtain objective and scientifically accountable data, data collection techniques are carried out through:

- 1) Library research, which is the search and study of primary, secondary, and tertiary legal materials that are relevant to the focus of research.
- 2) The study of case documents, by examining court files and decisions related to the application of restorative justice in traffic accident cases that resulted in the death of the victim, especially Decision Number 173/Pid.Sus/2023/PNPms.

Interview, conducted with the Judge of the Pematangsiantar District Court In order to obtain empirical information about legal considerations in deciding the case that is the object of research

The data obtained from the results of interviews and secondary legal materials were then inventoried and classified according to the needs of the research. The data is then

analyzed qualitatively using deductive reasoning, which is a thinking method that departs from legal provisions and general theories to explain and assess its application in concrete cases. This analysis aims to answer the formulation of research problems comprehensively and systematically

Results and Discussion

1. Criminal Liability of the Perpetrators of Traffic Accidents That Resulted in the Death of the Victim

A traffic accident that results in the death of a person is a legal event that has serious consequences, both in terms of humanitarian and from the perspective of criminal law. Within the framework of criminal law, criminal liability for the perpetrators of traffic accidents cannot be separated from the concept of fault. Mistakes are the main basis for determine whether a person can be held accountable for his actions. In the context of traffic accidents, mistakes are generally not intentional, but negligence in fulfilling the legal obligation to act carefully and comply with traffic rules.

Negligence as a form of error has its own characteristics, namely the presence of a lack of care, neglect, or not paying attention to the standards of vigilance that should be carried out by every road user. Such negligence can appear in various forms, such as driving at speeds that are not in accordance with road conditions, not paying attention to traffic signs, or not anticipating potential dangers for other road users. When such negligence causing consequences in the form of loss of other people's lives, the act is seen as a serious violation of legal norms and social norms.

Criminal liability in traffic accident cases aims to enforce legal certainty while providing protection against public safety. The state through criminal law has an interest in ensuring that every road user acts in accordance with the established standards of prudence. Therefore, the criminalization of the perpetrators of traffic accidents that result in the death of the victim is seen as a means to affirm the legal responsibility of the perpetrator and prevent its recurrence similar events later on.

However, criminal liability in traffic accident cases cannot always be understood simply. Everything has different characteristics, both in terms of chronology of events, degree of negligence the perpetrator, as well as the condition of the victim and the surrounding environment. These factors demand a careful and proportionate assessment from law enforcement officials, especially judges, in determining their form and weight criminal liability imposed.

2. Restorative Justice in the Settlement of Traffic Accident Cases

The development of modern criminal law thought shows a paradigm shift from a purely repressive approach to a more recovery-oriented approach. In this context, restorative justice is present as a concept that emphasizes the importance of restoring social relations that are disrupted due to the occurrence of criminal acts. Restorative justice views criminal acts not only as a violation against the state, but also as a events that cause losses to victims and the community.

In the case of a traffic accident that resulted in the death of the victim world, restorative justice approaches have significant relevance. This is due to the characteristics of actions that are generally not based on malicious intentions. The perpetrators of accidents often also experience psychological distress due to the events that occur, while the victim's family is

more in need recovery and recognition of losses suffered. In such conditions, the settlement of cases that only focus on punishment can be felt to lack complete justice.

Restorative justice in traffic accident cases can be realized through a dialogue mechanism between the perpetrator and the victim's family, facilitated by the law enforcement officers. Through this process, the perpetrator is encouraged to be aware of the consequences of his actions and take real responsibility, both in the form of apology, compensation, and other recovery efforts. On the other hand, the victim's family is given space to express their feelings and hopes, so that a more humane settlement is created.

Nevertheless, the application of restorative justice in cases that resulting in the death of the victim cannot be done immediately. There are certain limitations that must be observed in order for its application does not ignore the principle of legal certainty and the sense of justice of the wider community.

The state still has an interest in upholding the law and maintaining public order, so restorative justice must be proportionately placed as a complement to, not an absolute substitute for, criminal liability.

3. Judges' Considerations in Balancing Criminal Responsibility and Restorative Justice

Judges have a central role in determining the direction of resolving traffic accident cases that resulted in the victim's death. In carrying out judicial functions, judges not only apply legal provisions textually, but also consider the values of justice, utility, and legal certainty in a balanced manner. These considerations are reflected in the judge's analysis of the perpetrator's level of wrongdoing, the impact of the act on the victim, and the perpetrator's response after the accident occurred.

In practice, the judge can consider the existence of peace efforts between the perpetrator and the victim's family as one of the mitigating factors. The peace shows the good faith of the perpetrator to take responsibility and the desire of the victim's family to resolve the case peacefully. However, peace does not necessarily erase criminal liability, but is part of the judge's consideration in making a proportionate verdict.

Through comprehensive consideration, judges are expected to be able to produce a verdict that not only meets the formal legal aspect, but also reflects substantive justice. Thus, the application of restorative justice in traffic accident cases can be a means to strengthening public trust in the criminal justice system, without overriding the principle of legal accountability of perpetrators

Conclusion

Criminal liability for the perpetrators of traffic accidents that result in the death of the victim remains a legal consequence that cannot be ignored. Although these acts are generally carried out without an element of intentionality, negligence that results in the loss of a person's life has met the element of error in the criminal law. Therefore, the perpetrator can still be held criminally liable based on the provisions of the applicable laws and regulations, especially Article 310 paragraph (4) of Law Number 22 of 2009 concerning Road Traffic and Transportation and Article 359 of the Criminal Code. The criminal liability aims to enforce legal certainty, provide protection for the safety of road users, and prevent the recurrence of similar incidents in the future.

The application of restorative justice in traffic accident cases that result in the death of victims is a relevant approach to realize balanced justice. This approach is not intended to remove criminal liability, but rather to integrate the recovery aspect of victims and their families into the law enforcement process. Through a mechanism of dialogue and deliberation involving the perpetrator, the victim's family, and law enforcement officials, restorative justice is able to present a more humane solution while still paying attention to the value of justice, utility, and protection of victims' rights.

The application of restorative justice in traffic accident cases that result in the death of the victim must be carried out selectively and proportionately while still paying attention to legal certainty and the purpose of the penalty. Restorative justice cannot be applied absolutely, if it has the potential to ignore the public interest, the sense of justice of the community, and the preventive and repressive functions of criminal law. Therefore, the judge has a strategic role in assessing the level of negligence of the perpetrator, the existence of good faith, the willingness of the victim's family to reconcile, and the social impact caused. With comprehensive consideration, restorative justice can function as a complementary instrument in the criminal justice system to realize substantive justice without overriding the principle of criminal accountability.

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