

## ***APPLICATION OF RESTORATIVE JUSTICE IN TRAFFIC ACCIDENTS CASES***

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### **ABSTRACT**

This research aims to explain the efforts and factors that influence the implementation of restorative justice in traffic accident cases at the Banda Aceh Police Traffic Unit. The research results show that the application of restorative justice in resolving traffic accident cases is carried out by investigators after there is peace between the perpetrator and the victim's family. This is done before the Investigator sends a Notification Letter of Commencement of Investigation to the Public Prosecutor so that the case is not continued. Factors that influence the implementation of restorative justice consist of two factors, namely law enforcement and community cultural laws. The law enforcement factor is the lack of knowledge and understanding of investigators regarding applicable laws and regulations. Community legal culture factors are related to religion, values, attitudes and behavior in people's lives so that they influence decision making to resolve traffic accident cases experienced through restorative justice. We hope that traffic accident unit investigators from the Banda Aceh Poresta Traffic Unit can increase their knowledge and understanding of procedures for handling traffic accidents through restorative justice. So that the application of restorative justice in resolving traffic accident cases can be carried out in accordance with the procedures for resolving cases based on the provisions of applicable laws and regulations.

**Keywords:** *Application, Restorative Justice, Traffic Accidents.*

## 1. INTRODUCTION

A traffic accident is an undesirable event that involves at least one motorized vehicle on a section of road and causes material loss, let alone victims of traffic accidents that occur, including due to fatigue, lack of focus, carelessness, and progress suffered by the driver. In the Law Number 22 of 2009 concerning Road Traffic and Transportation has the aim of establishing free, orderly, effective traffic and road transportation services and establishing law enforcement and legal certainty for the people. Article 229 of Law Number 22 of 2009 concerning Road Traffic and Transportation explains that traffic accidents are grouped into 3 (three): First, minor traffic accidents causing damage to vehicles and/or goods. Second, moderate traffic accidents cause minor injuries and damage to vehicles and/or goods. Third, serious traffic accidents are accidents that cause the victim to suffer death or serious injury.

Regarding the judicial system in Indonesia, it is still not in line with the wishes of the people. Lots of complaints are being made and people like to raise decisions from justice seekers regarding the judicial system in Indonesia. This problem can be understood because the people hope that judicial institutions can provide justice to the people.<sup>1</sup>

Handling of criminal cases with restorative justice in the investigation stage is regulated in the National Police Chief's Circular Letter Number 8 of 2018 which has just been updated in the form of Republic of Indonesia State Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts According to Restorative Justice, which is a step for the Republic of Indonesia State Police in giving birth to the prevention of criminal acts by prioritizing recovery in the initial situation and harmonizing the protection and urgency of victims and perpetrators of criminal acts that are not focused on punishment is a legal interest in society.

Restorative justice recognizes that crime is not merely a violation of state law, but rather a violation of legitimate justice for citizens. The basic point of countermeasures is not aimed at punishing wrongdoers because they have violated state law, but in efforts to heal social relationships and social justice that have been destroyed due to crime. Restorative justice procedures require the reliable participation of parties affected (directly or indirectly) by crimes that occur in order to obtain remedial pathways, and do not depend on state law enforcers with legitimate formal procedures, but are characterized by informal and voluntary procedures.<sup>2</sup>

According to traffic accident data sources and case resolution at the Banda Aceh Police Traffic Unit, in 2022 there will be 87 and seven traffic accident cases, but because the author only dissects the settlement pattern, the author will describe 1 case of traffic dispute resolution caused by the negligence of the traffic accident perpetrator. traffic that causes serious injury to the victim. Which was resolved through an agreement between both parties involving the Head of the Banda Aceh Police Traffic Unit, the families of the parties (victim and perpetrator), keuchik of both parties and the Bhabinkamtibmas officers from the location of the incident to resolve the case. This case was resolved peacefully by fulfilling justice (restorative justice).

## 2. RESEARCH METHODOLOGY

The methodology used in this research is an empirical legal research methodology.<sup>3</sup> This research method is used so that the problem being studied moves to statutory provisions, namely the relationship between one provision and another and the relationship with its implementation. This research was conducted in Banda Aceh. Sampling technique: This research uses a purposive sampling technique (appropriateness), that is, from the entire population, only a certain number of people will

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<sup>1</sup> Muhammad Rusli, Potret Lembaga Pengadilan Indonesia, Jakarta: Rajawali Pers, 2006, hlm. 180.

<sup>2</sup> Afthonul Afif, Pemaafan, Rekonsiliasi & Restorative Justice; Diskursus Perihal Pelanggaran di Masa Lalu dan Upaya-Upaya Melampauinya, Yogyakarta: Pustaka Pelajar, 2015, hlm. 328-329.

<sup>3</sup> Bambang Sunggono, Metodologi Penelitian Hukum, Jakarta: Rajawali Pers, 2013, hlm. 118.

be determined who are expected to be able to provide clear data so that they are seen as representing the whole. This method is generally intended as a sampling procedure by first determining the total sample to be used, after which the sample selection is carried out according to specific purposes, as long as it does not deviate from the specified sample characteristics.<sup>4</sup> Meanwhile, data collection techniques are carried out using field studies and literature studies and all data obtained from the results of literature studies and field study results will be processed and analyzed using qualitative scheme methods.

### **3. RESULT AND DISCUSSION**

#### **1) Implementation of Restorative Justice in Traffic Accident Cases in the Banda Aceh Police Traffic Unit Area**

According to valid legal provisions in Indonesia, namely those contained in the statutory provisions, criminal cases cannot be handled outside of court, especially in cases of traffic accidents, so they need to be handled using a criminal justice system (criminal justice system). Therefore, handling traffic accident cases continues to refer to the provisions of Law Number 22 of 2009 concerning Road Traffic and Transportation.

However, in practice it is still found that there are several cases of traffic accidents which are not handled based on criminal provisions, namely by court action, but are handled peacefully by the parties involved. Especially for traffic accidents which result in serious injuries to the victim, which are resolved by agreement between the parties to make peace between the perpetrator and the victim, the agreement taken is seen as a procedure for handling the case and can end disputes or problems that occur between the perpetrator and the victim.

Juridically, it is seen as contrary to the provisions of criminal law and criminal procedural law, the KUHAP regulates criminal procedures because in fact the KUHAP does not recognize peace in the procedures for handling cases. In fact, in the Banda Aceh Police Traffic Unit, based on the results of questions and answers with the Head of the Banda Aceh Police Traffic Unit, Commissioner Sukirno, in 2021, of the number of traffic accidents with light injuries, there were 87 (eighty-seven) cases, and there were 33 cases of moderate injuries. (thirty three) cases and there were 1 (one) serious injury and almost the majority were resolved outside of court.

In the implementation of Restorative Justice in traffic accident cases that cause minor and moderate injuries, it can be resolved by agreement between the parties, for example the parties agree on the amount of medical costs, as well as the costs of vehicle damage borne by the suspect/perpetrator. Evidence belonging to the suspect can be taken back and repaired, the relationship between the victim and the perpetrator can be fostered with the aim of not giving rise to feelings of revenge, as well as peaceful coping that has an impact and benefits for the victim. with the implementation of restorative justice, cases can be resolved quickly.

The process of resolving the problem is carried out by calling both parties, the village head from both parties, to provide an explanation of the problem and a memorandum of peace agreement, the traffic officer or representative to resolve the case as a facilitator and mediator, in this mediation the victim and perpetrator can be accompanied or represented. by relatives. Family or community leaders such as Keuchik or village officials, in the mediation process for resolving accident cases that cause minor injuries can also be carried out without involving the police. namely the perpetrator, victim and relatives both meet personally and make an agreement by making a peace statement.

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<sup>4</sup> Sugiyono, Metode Penelitian Kuantitatif, Kualitatif dan R&D, Bandung: Alfabeta, 2008, hlm 85.

## **2) Obstacles faced by the Banda Aceh Police Traffic Unit in Efforts to Implement Restorative Justice in Traffic Accidents**

As for understanding the obstacles that influence the implementation of Restorative Justice in handling traffic accident cases at the Banda Aceh Police, it can be considered in the application or implementation stages of restorative justice itself which is carried out by the Traffic Accident Unit Investigators at the Banda Aceh Police when resolving traffic accident cases in the field. This problem means that the obstacles or aspects that influence the implementation of restorative justice in handling traffic accident cases are as follows:

### **a) Readiness of Law Enforcement officers**

The law enforcement aspect is an aspect that arises from law enforcement officers who carry out statutory provisions on the implementation of law enforcement. In this case, the Banda Aceh Police Traffic Accident Unit Investigators handle traffic accident cases from the first stage of resolution at the location of the incident which is examined using investigation procedures. as well as investigations into traffic accident cases that are ongoing until the efforts to resolve the traffic accident case through the implementation of restorative justice until the response to the traffic accident is terminated, the investigation procedure or the investigation is not forwarded to the Public Prosecutor. The education factor and the skills of investigators in valid statutory provisions have an important impact on investigation procedures and investigations of criminal acts so that they are needed as capital for Banda Aceh Police Traffic Accident Unit Investigators when resolving traffic accident cases that have occurred since the first stage of handling the case in location of the incident, stages of investigation and investigation of traffic accident cases to handling cases through the implementation of restorative justice. Without adequate education and skills based on legal provisions, the work carried out by Traffic Accident Unit Investigators at the Banda Aceh Police Traffic Unit when implementing restorative justice in handling traffic accident cases will not be in accordance with valid legal provisions due to a lack of understanding or lack of knowledge. from the investigator handling the traffic accident case.

### **b) Aspects of Legal Tradition**

The aspect of legal tradition referred to as the aspect that has an effect on the implementation of restorative justice in handling traffic accident cases in this article is the legal culture of the people which is an aspect that is strongly related to the values, attitudes, behavior and living traditions of the people which influence compliance with statutory provisions. a legitimate invitation to social life. One of the traditions that is still adhered to by the Indonesian people is the culture of discussion and handling in a friendly manner to handle a problem or criminal case that occurs in people's lives, where people who participate in traffic accident cases can be victims or perpetrators who have speculation that the case will be handled Traffic accidents that happen to themselves or their relatives do not necessarily always need to be handled through legal channels and even go to court, but sometimes people feel more likely to get justice if the handling of traffic accident cases is carried out through discussions between families, including traditional leaders or local community leaders according to morals. - noble morals, traditions or culture that are valid in social life in Indonesia which are known to have characteristics or attitudes that are mutually forgiving if a problem or problem occurs in social life. However, it is true that aspects of a community's legal traditions vary in social life from one region to another, for example among residents living in rural areas whose traditions are still strong, so that the community has an effect on the opinions of residents in dealing with problems that occur in social life. which focuses more on dealing with families through discussions so that they can restore a harmonious life to the way it was before, which was disturbed due to ongoing criminal acts.

#### 4. CONCLUSION

In implementing restorative justice in traffic accident cases that cause minor and moderate injuries, it can be resolved regarding medical costs and vehicle damage costs borne by the parties or perpetrators depending on the contents of the parties' agreement. The relationship between the victim and the perpetrator can be fostered with the aim of not giving rise to feelings of revenge, as well as peaceful coping that has an impact and benefits for the victim. By implementing restorative justice, cases can be resolved quickly. Meanwhile, the obstacles that have an effect on the implementation of restorative justice in handling serious traffic accident cases at the Banda Aceh Police are influenced by 2 (two) aspects, namely, aspects of law enforcement and factors from legal culture. The law enforcement aspect is the knowledge of the Traffic Accident Unit Investigators at the Banda Aceh Police regarding legal provisions relating to the investigation and investigation of traffic accident cases, especially regarding the implementation of restorative justice in handling criminal cases. Aspects of legal tradition are related to the morals, mannerisms, character of all individuals in society which become opinions or guides in going through life in society and have an effect on decisions to deal with cases of traffic accidents suffered by them through the implementation of restorative justice.

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