

Effectiveness Of Restorative Justice In Traffic Accident Case Settlement And Its Implications For The Parties Involved (Research Study At Bintan Police Station)

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Effectiveness Of Restorative Justice In Traffic Accident Case Settlement And Its Implications For The Parties Involved (Research Study At Bintan Police Station)

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Abstract. Traffic accidents are a severe problem that significantly impacts people's safety and well-being. In Indonesia, the restorative justice approach has been adopted as an alternative to resolving traffic accident cases, which aims to restore the relationship between the perpetrator and the victim and reduce the burden on the criminal justice system. This study focuses on the effectiveness of the implementation of restorative justice by the Bintan Subregional Police in resolving traffic accident cases in Batam City, as well as its implications for the parties involved. This study aims to analyze how the application of restorative justice can affect the settlement of traffic accident cases, assess the effectiveness of this approach, and identify relevant obstacles and solutions to optimize its implementation. The research method used is qualitative, collecting data through in-depth interviews, observations, and document analysis. The research respondents comprised police officers, victims, perpetrators, and community leaders involved in the mediation process. The study results show that implementing restorative justice by the Bintan Subregional Police has excellent potential to create a fairer and more satisfactory settlement for all parties involved. However, its effectiveness is still hampered by limited resources and training for the police, lack of public understanding, and suboptimal coordination between institutions. The proposed solutions include increasing training programs for police officers, drafting more detailed regulations, and intensifying socialization to the public about the benefits and processes of restorative justice. The study suggests that police forces increase training and resources, communities are more active in supporting this approach, and governments develop regulations that support and improve coordination between agencies. By overcoming these obstacles, the application of restorative justice in resolving traffic accident cases can be more effective and provide more significant benefits to the community, as well as increase trust in the criminal justice system in Indonesia.

Keywords: Effectiveness, Restorative Justice, Traffic Accidents.

1. INTRODUCTION

Traffic accidents are one of the most severe problems in modern society and significantly impact individual's and society's safety, health, and quality of life. The increasing number of road users follows the rise of road construction. It can be seen with the naked eye how the number of vehicles is increasing from year to year. This condition also requires attention from the government as a state organizer. For this reason, to overcome the problems expected to arise in connection with all aspects of this traffic, the government has long thought about and made efforts to realize security, safety, order, and smooth traffic. Law is a tool to maintain order in society.

The government issued Law Number 22 of 2009 concerning Road Traffic and Transportation. Several traffic accidents that occurred could have been avoided if road users obeyed traffic regulations as regulated in Article 105 of Law Number 22 of 2009 concerning Road Traffic and Transportation, which states that everyone who uses the road is obliged to behave in an orderly manner or prevent things that could obstruct, endanger the security and safety of road traffic and transportation, or that could cause road damage. A traffic accident

is an unlawful act, one of the elements of a criminal act. In legal norms, if a citizen violates legal provisions, the state can impose sanctions following the laws and regulations formulated, whether the primary criminal sanctions, additional criminal sanctions, or special criminal sanctions for regulated offenses by law.

Restorative justice means: "a restoration of relations and redemption of guilt that the perpetrator of the crime (his family) wants to do to the victim of the crime (his family) (peace efforts) outside the court with the intention and purpose that the legal problems arising from the occurrence of the criminal act can be appropriately resolved by reaching an agreement and agreement between the victims, perpetrators, and the community. The National Police facilitates the perpetrators and victims of traffic accidents to settle cases through restorative justice, which is then outlined in a written agreement. The written agreement is used as a foothold by the police to take discretion. Discretion has a legal basis to guarantee it, namely, Law Number 2 of 2002 concerning the Republic of Indonesia, so that the discretion of the National Police is not arbitrary.

In the eyes of restorative justice, criminal offenses are violations of human beings and human relationships. Restorative justice can be implemented through mediation between victims and offenders, family group deliberations, and restorative community services for both victims and offenders. The application of restorative justice principles depends on the legal system adopted by a country. Law enforcement in Indonesia now still leaves various problems that must be resolved, especially criminal cases involving one party with another party in the community.

Resolving traffic accident cases is a complex challenge for the criminal justice system. The case handling process involves various related parties, such as the victim, the victim's family, the perpetrator of the accident, the police, prosecutors, and judges. However, sometimes, the settlement of traffic accident cases still focuses on the punitive aspect alone, without giving adequate attention to victim recovery and reconciliation between victims and perpetrators. Based on the above problems, the author is interested in making it a scientific work in the form of a thesis with the title " Effectiveness² Of Restorative Justice In Traffic Accident Case Settlement And Its Implications For The Parties Involved (Research Study At Bintan Police Station."

Based on the background description above, the author raises several issues that need further discussion. The problems³ are as follows:

1. How is the legal regulation of restorative justice approach in traffic accident case settlement?
2. How is applying the restorative justice approach practical in settling traffic accident cases by the Bintan Subregional Police?
3. What are the obstacles and efforts to implement a restorative justice approach in settling traffic accident cases by the Bintan Subregional Police?

Based on the problem formulation stated above, it can be seen that the objectives of this study are:

1. To determine and analyze the legal arrangements for the restorative justice approach in settling traffic accident cases.
2. To determine and analyze the effectiveness of applying the restorative justice approach in settling traffic accident cases by the Bintan Subregional Police.
3. To find out and analyze the obstacles and efforts to implement a restorative justice approach in settling traffic accident cases by the Bintan Subregional Police.

2. LITERATURE REVIEW

Effectiveness comes from the English word effective, which means "successful" or "efficacious". According to Komaruddin in the Encyclopedia, effectiveness shows the achievement of goals, and an effort is said to be effective if the effort achieves its goals. Additionally, another opinion says that effectiveness measures achieving predetermined goals or objectives. Effectiveness is the achievement of various goals determined on time using specific resources allocated to carry out certain activities. Furthermore, according to Handoko, effectiveness is choosing the right goal or equipment to determine the predetermined goal. The effectiveness of law enforcement is measured not only by the number of cases successfully processed or the high level of compliance with the law but also by the quality of justice produced, public perceptions of justice, and the legitimacy of the legal system.

Restorative justice is an approach to the justice system that emphasizes restoring relationships, reconciliation, and meeting the needs of all parties involved in a crime or conflict. In contrast to traditional criminal justice systems that focus on punishment and retribution, restorative justice focuses more on the healing process and the impact of crime on victims, communities, and offenders themselves. Restorative justice has developed globally. In many countries, restorative justice is one of several essential approaches to crime and justice that continue to be considered in justice systems and legislation. As the process

has spread worldwide, several innovations open to restorative justice have emerged. Restorative justice has gained recognition and adoption in many countries as an alternative or complement to the conventional criminal justice system. This approach has often proven effective in reducing recidivism, increasing victim satisfaction, and strengthening community relations.

In this context, Austin's theory can assist in analyzing how existing positive law supports or potentially inhibits the implementation of restorative justice principles in the criminal justice system, particularly concerning traffic accident cases. This research can explore how the current legislation and legal policies in Bintan Regency reflect the command and sanction approach in resolving traffic accident cases and the extent to which this approach provides space for implementing restorative justice. Furthermore, the application of Austin's positive law theory in the context of restorative justice in traffic accident cases allows the research to evaluate certain aspects of positive law that may need to be adjusted or reformed to facilitate restorative justice processes. Includes considering how positive law can accommodate mediation processes between victims and perpetrators, admissions of fault by perpetrators, and agreements on restitution or other forms of redress.

The legal system theory developed by Lawrence M. Friedman, which views law as a system consisting of three main components: legal structure, legal substance, and legal culture, offers a relevant framework for the thesis research on "The Effectiveness of Restorative Justice Implementation in the Settlement of Traffic Accident Cases and its Implications for the Parties Involved" in Bintan Regency. In this context, Friedman's theory allows the research to comprehensively analyze how various elements of the legal system in Bintan Regency, ranging from the applicable legal regulations and procedures (legal substance), law enforcement mechanisms, and judicial institutions (legal structure), to community values and attitudes towards law and justice (legal culture), affect the application and effectiveness of restorative justice in traffic accident cases.

Progressive legal theory underscores the importance of community participation in legal and justice processes. This theory is relevant to research on restorative justice, which requires the active involvement of victims, offenders, and community members in finding fair and satisfactory solutions to all parties. By applying progressive legal theory, research can identify ways to increase community awareness and understanding of restorative justice and develop mechanisms that enable broader community participation in the restorative process. In this context, Rahardjo's theory provides a basis for exploring how laws and policies can be designed and implemented to promote community-based justice, recognize

the diversity and complexity of social needs, and contribute to developing a more harmonious and just society.

3. RESEARCH METHODS

Research is an investigation managed systematically based on data, critical, objective, and scientific towards a specific problem aimed at finding alternative solutions to related issues. Method is the process, principles, and procedures for solving a problem. The specifications of this research only carry out analysis to a descriptive level, namely analyzing and presenting facts systematically so that they can be more easily understood and concluded. Research specifications or it can be said that the type of research is a choice of research format in examining the object of research in the field of law studied by the researcher.

This research combines the normative approach, "legal research", and the empirical approach method, "Juridical Sociologies". The research mechanism with this combined approach method is carried out by describing the research explanation inductively, leading to a deductive way and vice versa. The author does this to help explain the relationship between research variables and the object of research so that it can produce an understanding that is very helpful to readers, especially researchers and academics.

The location of this research is Bintan Regency, which is precisely in the jurisdiction of Bintan Subregional Police. The population is all law enforcement officers and the public in the jurisdiction of the Bintan District Police Station. The sample researchers used a random technique to know what research would be studied. The author's sample is a purposive sampling technique to determine whether respondents and informants are competent in this thesis research.

4. RESULTS AND DISCUSSION

A. Legal Arrangements for Restorative Justice Approach in Case Settlement Traffic Accident

Restorative justice is an alternative approach to resolving criminal cases that emphasizes restoring relations between victims and perpetrators and the social reintegration of perpetrators into society. This approach addresses the root causes of crime by bringing together the parties involved in a dialog to reach a mutual agreement on a fair settlement for all parties. In the context of traffic accidents, restorative justice allows victims to obtain compensation or other forms of recovery without going through

a lengthy and formal judicial process. The perpetrators of the accident are also allowed to take responsibility and correct their mistakes through actions mutually agreed upon with the victim. The Restorative Justice approach in resolving traffic accident cases in Indonesia is regulated by several legal regulations that underlie its implementation. The following are articles and explanations of these legal arrangements and their legal analysis:

- a. Law Number 22 Year 2009 on Traffic and Road Transportation
- b. Law No. 2 of 2002 on the National Police of the Republic of Indonesia
- c. Regulation of the Indonesian National Police No. 8 of 2021 on Handling Criminal Offenses Based on Restorative Justice

B. Effectiveness of Restorative Justice Approach in Case Settlement Traffic Accidents by Bintan Subregional Police

Traffic accidents in Bintan Regency 2023 recorded 103 incidents, with seven fatalities, 101 serious injuries, and 63 minor injuries. In addition, there were 8,343 cases of traffic violations, with 364 tickets and 7,979 warnings. Although there was a decrease in traffic violations compared to the previous year, the number of accidents that resulted in fatalities and serious injuries is still a significant concern. Chief of Bintan Subregional Police AKBP Riky Iswoyo emphasized the importance of the restorative justice approach in resolving traffic accident cases to achieve more holistic justice and reduce the burden on the justice system. Bintan Subregional Police noted that these cases are often resolved through a restorative justice approach, allowing perpetrators and victims to agree outside formal judicial channels. This approach aims not only to compensate the victim but also to repair the relationship between the perpetrator and victim and restore the harm caused by the accident.

In implementing the restorative justice approach, the police force plays a pivotal role as a mediator between victims and perpetrators. For instance, in certain instances, mediation is employed to achieve an accord on financial compensation or other forms of redress, such as community service or a sincere apology from the offender to the victim. In Bintan facilitates the resolution of traffic accident cases through restorative justice, which is then documented in a written agreement. In this context, the role of the police includes:

- a. Mediation and deliberation
- b. Police Discretion
- c. Documentation and Supervision

In his legal system theory, Lawrence M. Friedman posits that law comprises three principal elements: legal structure, legal substance, and legal culture. An evaluation of the efficacy of restorative justice implementation by the Bintan Subregional Police can be conducted through these three lenses.

- a. Legal Structure
- b. Legal Substance
- c. Legal Culture

The implementation of restorative justice by the Bintan Subregional Police can be analyzed through an examination of the following progressive legal principles:

- a. Humanization of the law
- b. Law Reform
- c. Community empowerment

C. Obstacles and Efforts in the Implementation of Restorative Justice Approach in the Settlement of Traffic Accident Cases by Bintan Subregional Police

The obstacles to the application of the restorative justice approach in resolving traffic accident cases by Bintan Subregional Police, namely:

1) Limited resources and training

One of the main obstacles to implementing the restorative justice approach is the limited resources and training for police officers. Effective implementation of this approach requires police training in mediation and negotiation techniques and an in-depth understanding of the principles of restorative justice. Budget constraints and a lack of specialized training programs often hamper the ability of police to perform this role optimally. Untrained police may struggle to facilitate effective and fair mediation, undermining community trust.

2) Lack of clear regulations and operational guidelines

Although there are supporting regulations, such as Perkap No. 8 of 2021, more detailed and specific regulations and operational guidelines are still needed to ensure consistency in applying restorative justice. Clear guidelines are essential to provide direction to the police on how to handle various situations that may arise during the mediation and deliberation process. Without adequate guidance, implementation can be inconsistent, reducing the effectiveness and fairness of this approach.

3) Gaps in community acceptance and understanding

Another significant obstacle is the gap in community acceptance and understanding of restorative justice. Many community members are still accustomed to conventional criminal justice approaches and may feel that out-of-court settlements do not provide sufficient justice or do not provide an adequate deterrent effect for the offender. Lack of socialization and education regarding the benefits and process of restorative justice results in resistance from the community, which may hinder their active participation in the mediation and recovery process.

4) Lack of institutional support and inter-agency coordination

Implementing restorative justice requires good support and coordination between relevant institutions, including the prosecution, courts, and other social institutions. Lack of institutional support and effective coordination can hinder ensuring that agreements reached through mediation are correctly implemented and that all parties abide by their commitments. Without adequate support from all relevant institutions, the sustainability and effectiveness of restorative settlements may be compromised,

5) Challenges in balancing the interests of victims and perpetrators

One of the challenges in implementing restorative justice is balancing the interests of victims and offenders. Effective mediation must ensure that the rights and needs of the victim are met while also providing the opportunity for the offender to take responsibility and make reparation. In some cases, victims may feel pressured to accept an agreement that is not entirely satisfactory in order to reach a quick settlement. The mediator needs to ensure that the process is fair and that both parties reach an agreement voluntarily and with complete understanding.

5. CONCLUSIONS AND SUGGESTIONS

A. Conclusions

Based on the discussion in the previous chapter, the following conclusions can be drawn:

- 1) The legal regulation of the restorative justice approach in the settlement of traffic accident cases, as applied by Bintan Subregional Police, shows the commitment of Indonesian law to integrate the principles of restorative justice into the criminal justice system. With a solid legal basis from Law No. 22 of 2009 on Traffic and Road Transportation and regulatory support through National Police Regulation No. 8 of

2021, this approach allows for a more humane and recovery-focused resolution. Police discretion is crucial in facilitating mediation and deliberation between victims and perpetrators, with documentation and supervision ensuring commitments from both parties are met.

- 2) The effectiveness of applying the restorative justice approach in settling traffic accident cases by Bintan Subregional Police shows positive results in creating fairer and more recovery-oriented solutions. Despite challenges such as limited resources, lack of community understanding, and the need for more detailed regulations, the role of the police as mediators and their use of discretion has successfully facilitated mediation that prioritizes substantive justice. These obstacles can be overcome with specialized training, transparent regulations, intensive socialization, and muscular coordination between agencies. This approach reduces the burden on the formal justice system and increases active community participation in the legal process, creating more holistic and sustainable justice for all parties involved.
- 3) The obstacles to applying the restorative justice approach by Bintan Subregional Police in resolving traffic accident cases include limited resources and training for police officers, lack of regulations and detailed operational guidelines, and low public understanding and acceptance of this concept. In addition, coordination between related institutions and challenges in balancing the interests of victims and perpetrators are also obstacles. Improving institutional support and inter-agency coordination and ensuring the balance of victim and offender interests through proper monitoring and evaluation. Implementing these solutions can make restorative justice approaches more effective, benefit all parties involved, and increase public confidence in the justice system.

B. Suggestions

Based on the above conclusions, some suggestions are given as follows:

- 1) It is suggested that the police should improve the particular training program for officers involved in the implementation of restorative justice, with a focus on mediation and negotiation skills. In addition, the police need to ensure clear and detailed operational guidelines for the mediation process and allocate adequate resources to support the implementation of this approach.
- 2) It is suggested that the community should be more proactive in supporting and participating in the restorative justice process. Intensive socialization and education should be conducted to increase understanding and acceptance of this approach.

- 3) It is suggested that the government needs to develop more detailed regulations and policies supporting restorative justice implementation, including clear operational guidelines for all relevant institutions. In addition, the government must ensure effective coordination between institutions such as the police, prosecutors, and courts to support consistent implementation. The government should also allocate an adequate budget to support training and socialization programs and facilitate solid institutional support to ensure success.

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