



Implementation of the Restorative Approach in Traffic Accident Cases by the Indonesian Prosecutor's Office

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Abstract

Background. Traffic accidents are a form of criminal acts that occur quite often in the community and often have a significant impact, both in terms of physical, psychological, and social. Although the perpetrator may not be motivated by intent, they may still be subject to legal sanctions under applicable regulations. To achieve a fairer, more humane, and more efficient justice system, the Attorney General's Office of the Republic of Indonesia issued Regulation No. 15 of 2020 on the Termination of Prosecutions Based on the Principles of Restorative Justice.

Aims. The purpose of this study is to analyze the application of restorative justice in traffic accident cases and to evaluate the barriers to its implementation and the factors that support its implementation.

Method. The method employed combines a normative and empirical juridical approach, with data collected through literature reviews, interviews, and documentation.

Conclusion. The study's findings indicate that the restorative justice approach offers a more peaceful and equitable settlement for all parties involved. However, there remain challenges, including limited understanding among law enforcement officials, low community participation, and weaknesses in oversight mechanisms.

Implementation. Therefore, it is necessary to strengthen policies, continue training for prosecutors, and enhance community legal understanding so that restorative justice can be applied optimally and consistently in Indonesia.

Keywords: Traffic Accidents, Restorative Justice, Termination of Prosecution



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INTRODUCTION

Traffic accidents are criminal acts that often occur in society and can have a major impact, both physically, emotionally, and socially. Although it is often caused by negligence without malicious intent, the perpetrator may still be subject to legal sanctions under applicable regulations. The criminal law system in Indonesia tends to prioritize punishment (retributive) and pay less attention to the recovery aspect for victims and the social responsibility of the perpetrator.

In response to the need for a fairer, more humane legal system, the Prosecutor's Office of the Republic of Indonesia issued Regulation No. 15 of 2020 on the Termination of Prosecutions Based on Restorative Justice. This regulation authorizes prosecutors to stop prosecution in certain cases, including traffic accidents, if the perpetrator and the victim have reached peace, there is no resentment, and the perpetrator shows goodwill to be responsible.

Even so, the implementation of restorative justice still faces several obstacles, including limited understanding among law enforcement officials and low community participation in the case settlement process. In the context of traffic accidents, this approach offers a more peaceful and efficient solution by creating opportunities for a familial settlement. Therefore, further research is needed to assess the effectiveness of these regulations and the extent to which their implementation aligns with modern criminal law principles that emphasize conflict resolution through dialogue and restorative approaches.

Based on the above background, the problem found is how to apply restorative justice in handling traffic accident cases according to the Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2020, and what are the supporting and inhibiting factors in the implementation of the termination of prosecution based on restorative justice in traffic accident cases?

State of the Art (Latest Research Developments)

This research is part of a broader trend in modern criminal law scholarship toward a paradigm shift from retributive justice to restorative justice. In general, the position of this research can be mapped as follows:

1. Development of the Concept of Restorative Justice. Previous research has shown that restorative justice is emerging as an alternative approach to criminal case resolution,

particularly for Misdemeanor crimes, Cases without intentionality, and Cases with social relations that can still be restored. The main focus of this approach is Victim recovery, perpetrator responsibility, and Social reconciliation.

2. Implementation in Indonesia. In the Indonesian context, research on restorative justice generally focuses on the Implementation of Prosecutor's Regulation No. 15 of 2020, the Practice of termination of prosecution, the Role of prosecutors as facilitators, and Bureaucratic and structural barriers. Most of the previous research remains in the form of normative, regulatory analyses, and conceptual studies.
3. Specific Studies on Traffic Accidents. Research on traffic accidents and restorative justice is still relatively limited. Generally emphasizes: High accident rate, Dominance of negligence factors, Burden of formal judicial processes, Potential for penal mediation. This paper expands the study by directly linking traffic accidents to restorative-based prosecution termination mechanisms.
4. Position of this research. This research is in the initial implementation and evaluation phase of restorative justice policies in the prosecutor's office, particularly in traffic accident cases. Thus, this paper belongs to the research group: evaluative, implementive, empirical descriptive

METHODS

This study uses a normative and empirical juridical method approach with descriptive properties. The normative approach examines the legal norms embedded in laws, regulations, court decisions, and government regulations, as well as the views of legal experts on the topic under study. Meanwhile, the empirical approach involves collecting data through direct observation of reality in the field, as well as through facts that can be objectively observed and verified. This method is widely used across disciplines, including the social sciences, the natural sciences, and law, to understand events as they unfold, test theories, and advance scientific understanding. This research is descriptive and aims to systematically explain the application of the principle of restorative justice in handling traffic accident cases. In addition, this study analyzes the impact of applying this approach on a more equitable, human-value-oriented law enforcement process.

DISCUSSION

The Application of Restorative Justice in the Handling of Traffic Accident Cases According to the Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2020

Traffic accidents are a major problem in Indonesia. According to data from the Indonesian National Police, traffic accidents every year cause thousands of fatalities, injuries, and enormous material losses. However, many accidents are not caused by intentional factors but by negligence or carelessness. In criminal law, even if a perpetrator lacks malicious intent, they remain responsible for their actions because they cause harm to other parties. Lengthy and procedural legal processes often impose additional burdens on both parties, perpetrators, and victims.

As an alternative to handling criminal cases with a more humane approach and prioritizing recovery, the Prosecutor's Office of the Republic of Indonesia issued Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2020 concerning the Termination of Prosecutions Based on Restorative Justice. This regulation provides an opportunity for prosecutors to stop prosecutions in certain cases that meet the criteria of restorative justice, including in cases of traffic accidents. The application of restorative justice is expected to provide a more peaceful and just solution by involving perpetrators, victims, and the community in the process of resolving cases.

Restorative justice is an approach to criminal case resolution that emphasizes the restoration of harm caused by criminal acts through dialogue and active participation among perpetrators, victims, and the community. In contrast to the retributive approach, which focuses on punishment, restorative justice seeks to repair damaged relationships among perpetrators and victims, as well as between perpetrators and communities. This approach is more reactive than proactive and aims to mitigate the negative impact of a criminal act.

In the context of traffic accidents, restorative justice has the potential to resolve cases more effectively and efficiently. This is because many accidents are caused by negligence or accidents, in which the perpetrator usually has no malicious intent to harm others. Therefore, the restorative justice approach enables perpetrators and victims to engage in dialogue and reach a peaceful agreement, without the need for a lengthy and often painful judicial process

for both parties.

The Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2020 provides a legal basis for prosecutors to discontinue criminal prosecutions, grounded in the principle of restorative justice. This regulation was promulgated to provide space for the resolution of criminal cases in a more humane and fair manner, without always resulting in punishment. The implementation of this regulation, particularly in the context of traffic accidents, aims to provide an opportunity for perpetrators and victims to resolve disputes peacefully.

Prosecutor's Regulation Number 15 of 2020 provides that the prosecution may be terminated if several conditions are met, including a peace agreement between the perpetrator and the victim, the perpetrator's intention to assume responsibility, and the absence of resentment between the parties. In addition, this regulation also emphasizes the importance of community involvement in the case settlement process, as a form of social participation in creating justice.

In its implementation, the application of restorative justice in traffic accident cases under Prosecutor's Regulation Number 15 of 2020 proceeds through several stages. The first stage is to identify whether the accident case meets the criteria for restorative justice. In this case, the prosecutor must consider factors such as the degree of the perpetrator's fault, the nature of the loss, and the perpetrator's willingness to resolve the matter with the victim.

After the case is declared to meet the criteria, the next stage is mediation between the perpetrator and the victim. This mediation process aims to find a solution that benefits both parties. The perpetrator is afforded the opportunity to admit his mistake and take responsibility, while the victim is afforded the space to convey the impact of the accident. In this process, the prosecutor acts as a facilitator who helps both sides reach a peace agreement. The agreement may take the form of material compensation, an apology, or any other form of redress deemed fair by both parties.

If an agreement is reached, the prosecutor may discontinue the prosecution of the perpetrator, in accordance with the provisions of Prosecutor's Regulation Number 15 of 2020. This decision not only affords the perpetrator the opportunity to improve themselves but also provides the victim with a sense of justice.

Although restorative justice offers a more humane and equitable approach to traffic accidents, its implementation in practice is not always smooth. Some of the challenges faced

in its implementation include:

1. **Lack of Understanding of Law Enforcement Officials:** Although restorative justice has been regulated in regulations, not all law enforcement officials, especially prosecutors, fully understand the principles and procedures of its application. The lack of training and understanding of restorative justice mechanisms is a major obstacle to the implementation of this regulation.
2. **Limited Infrastructure and Resources:** The mediation process and restorative settlement of cases require trained facilitators and safe and comfortable spaces for dialogue. However, limited human resources and inadequate infrastructure often hinder the smooth running of this process.
3. **Low Public Awareness:** Society, including victims and perpetrators, still has a strong perception that legal settlement should always lead to punishment. Awareness of the benefits of restorative justice that is more restorative and peacefully resolved still needs to be increased.
4. **Challenges in Maintaining Equal Justice:** In some cases, it is possible that one of the parties feels compelled to accept the deal due to pressure or an imbalance of position. Therefore, it is important to ensure that any agreement reached is voluntary and grounded in a shared understanding between the perpetrator and the victim.

There are several factors that can support the successful implementation of restorative justice in traffic accident cases:

1. **Active Participation of Communities:** The success of restorative justice is highly dependent on the active participation of communities. If the community, including the families of the victims and the perpetrators, is willing to engage in the mediation and settlement process, then the chances of reaching a just and peaceful solution will be greater.
2. **Commitment of Law Enforcement Officials:** The success of the implementation of restorative justice also depends heavily on the commitment of law enforcement officials, especially prosecutors, in implementing these regulations with full responsibility and integrity. Therefore, training and debriefing for prosecutors should be conducted on an ongoing basis.
3. **Willingness of Perpetrators and Victims to Dialogue:** One of the key factors in the

success of restorative justice is the willingness of both parties to dialogue and find solutions together. If the perpetrator and the victim can resolve the matter peacefully, the legal process will be faster and more equitable.

Supporting and Inhibiting Factors in the Implementation of Termination of Prosecution Based on Restorative Justice in Traffic Accident Cases

The termination of prosecution through restorative justice is one alternative approach to settling criminal cases, aimed at avoiding a lengthy judicial process and emphasizing a peaceful reconciliation between the perpetrator and the victim. The Prosecutor's Office of the Republic of Indonesia Regulation No. 15 of 2020 governs the termination of prosecution through a restorative justice approach in certain criminal cases, including traffic accident cases. However, while the concept of restorative justice has considerable potential for resolving disputes in a more humane way, its implementation has not always been seamless. Several factors, both supportive and inhibiting, can affect the successful implementation of a prosecution termination in a traffic accident case.

The termination of prosecution based on restorative justice in traffic accident cases is driven by several factors that are key to its success. These factors can include legal, social, and practical aspects. Here are some of the factors that affect the effectiveness of restorative justice implementation.

Regulatory and Legal Policy Support

One of the main factors supporting the implementation of termination of prosecution based on restorative justice is the existence of supportive regulations. The Prosecutor's Office of the Republic of Indonesia Regulation Number 15 of 2020 provides a legal basis for the termination of prosecution in certain criminal cases deemed to meet the principles of restorative justice. The existence of this regulation provides legal clarity regarding the procedure for terminating prosecution and the role of the prosecutor's office in that process.

The existence of clear rules governing the criteria and procedures for terminating prosecutions based on restorative justice helps law enforcement officials understand when and how the restorative approach can be appropriately applied. This regulation provides clear guidelines on how mediation and recovery measures for victims and perpetrators can be

implemented.

Active Participation of Perpetrators and Victims

The active participation of perpetrators and victims is a key factor in the successful termination of prosecution through restorative justice. In a restorative justice process, both parties must be voluntarily and actively involved in mediation and problem-solving. Successful mediation between the perpetrator and the victim can increase the likelihood of a more peaceful termination of the prosecution.

Victim participation is very important because victims are given the opportunity to express the impact of the accident they experienced, both physically, emotionally, and socially. In addition, the perpetrator may demonstrate good faith by apologizing and offering compensation or other remedial measures to the victim. When both parties are willing to compromise and work together, the problem-solving process can run more smoothly.

The Role of the Prosecutor as a Facilitator

The prosecutor has a key role in facilitating mediation between the perpetrator and the victim. As a law enforcement official, the prosecutor is tasked with ensuring that termination of prosecution on restorative justice grounds is carried out in accordance with applicable regulations and that the implementation of restorative justice does not harm the legal interests of the community and the state.

The prosecutor's role in facilitating meetings between the perpetrator and the victim is essential to achieving a fair agreement. The prosecutor is also tasked with evaluating whether terminating the prosecution in favor of restorative justice is appropriate, given the legal considerations and interests involved.

Community and Environmental Support

Acceptance and support from the community and the surrounding environment are also factors that support the successful implementation of restorative justice. In many cases of traffic accidents, the community plays a significant role in supporting a peaceful settlement between the perpetrator and the victim. Support from the victim's family, the perpetrator's family, and the surrounding community can help create an atmosphere that supports

reconciliation and relationship recovery.

When communities understand the purpose and benefits of restorative justice, they are more likely to support the mediation process. It also reduces the stigma associated with the perpetrator, who is often viewed as incapable of receiving a second chance.

Understanding and Training of Law Enforcement Officers

The success of restorative justice implementation also depends heavily on a sufficient understanding of law enforcement officials, including prosecutors, police, and judges, of restorative justice principles. Therefore, ongoing training in restorative justice is indispensable for improving law enforcement's skills and knowledge in implementing these regulations.

Although there are many supporting factors, the termination of prosecution based on restorative justice in traffic accident cases also faces several obstacles that may reduce its effectiveness. Some of the main inhibiting factors that need to be considered include the following:

Lack of Awareness and Understanding of Restorative Justice

One of the main inhibiting factors is the lack of awareness and understanding of restorative justice among both the public and law enforcement officials. Many parties still maintain that the legal process must always culminate in criminal punishment as a form of justice. Therefore, there is a discrepancy in the legal paradigm that prioritizes punishment over rehabilitation.

A lack of understanding of the benefits and goals of restorative justice can discourage communities, including perpetrators and victims, from engaging in mediation and peaceful settlement processes. In this context, broader socialization of the concept and benefits of restorative justice is urgently needed.

Resistance from Law Enforcement Officers

Resistance from law enforcement officials is also a significant obstacle to the implementation of the termination of prosecution based on restorative justice. Not all law enforcement officials understand or agree with the application of restorative justice in handling traffic accident cases. Some officials may be more comfortable with traditional ways that

emphasize criminal punishment and formal judicial processes.

Sometimes, there is a perception that the suspension of prosecution can reduce the authority of law enforcement officials or give the impression that the perpetrator is not being punished fairly. Therefore, resistance to change within the justice system is a significant obstacle to the implementation of restorative justice.

Infrastructure and Resource Unpreparedness

The success of implementing termination of prosecution based on restorative justice is highly dependent on the availability of adequate infrastructure and resources. The mediation process requires trained facilitators, a comfortable space for meetings between the perpetrator and the victim, and an adequate system for recording and reporting the mediation outcome.

However, in many areas, the infrastructure and resources required to support restorative justice remain limited. These limitations can slow or even hinder the implementation of restorative justice in certain areas.

Disapproval of the Victim or the Victim's Family

Although restorative justice prioritizes the restoration of the relationship between the perpetrator and the victim, the victim's or the victim's family's disagreement with a peaceful settlement can be a major obstacle. In some cases, victims or their families feel that they do not get enough justice if the case is resolved in a more peaceful manner and without criminal punishment against the perpetrator.

This disapproval is often driven by resentment or distrust toward the perpetrator. In this regard, the roles of prosecutors and facilitators are crucial in convincing victims and their families that restorative justice does not entail neglecting their rights.

Time Constraints and Mediation Process

The time-consuming mediation process can be a hindrance, especially in situations involving multiple parties and emotional conflicts. The success of mediation depends heavily on the parties' willingness to compromise, which often requires considerable time. However, in some cases, the limited time available to law enforcement officials or victims and perpetrators can be a major obstacle.

Novelty (Novelty of Research)Based on the content of the article, the novelty of this research lies in the following aspects:

1. **Specific Focus on Traffic Accidents.** Most restorative justice research deals with criminal cases in general. This paper specifically examines: Implementation of restorative justice in traffic accident cases. This focus narrows the object of study so that it is more contextual and applicable.
2. **Integration of Normative and Empirical Approaches.** This research combines: Regulatory analysis, Field observation, Interview, and Documentation. This dual approach strengthens the validity of the findings compared to studies that are only normative.
3. **Systematic Identification of Supporting and Inhibiting Factors.** Another novelty is a structured mapping of: the role of the prosecutor, Community support, Infrastructure, Resistance of the apparatus, and victim perception. This analysis provides a fairly detailed operational picture.
4. **Emphasis on the Role of the Prosecutor as a Facilitator.** This paper explicitly affirms the prosecutor's function not only as a prosecutor but also as a mediator and driver of reconciliation. This aspect has not been discussed in depth in previous studies.
5. **Contextualization of Human Values.** This research relates restorative justice to: Humanitarian values, Substantive justice, Legal efficiency. This approach reinforces the philosophical dimension of policy implementation.

In summary, the novelty of this research lies in: a special focus on traffic accidents; an integrated normative-empirical approach; a systematic mapping of obstacles and supporters; an emphasis on the role of prosecutors as mediators; and a strengthening of the humanistic dimension.

Although this research is comprehensive, some research gaps remain.

1. **There is no quantitative analysis of impact.** This study has not measured, statistically, reductions in case burden, Time efficiency, Victim satisfaction levels, and recidivism rates among perpetrators. Gap: There is currently no empirical measurement based on quantitative data.
2. **Limitations of the Study Area.** The study did not provide a detailed description of the research area's scope. Gap: There is no comparison between regions (e.g., urban vs. rural, Java vs. outside Java).

3. It does not discuss the standardization of national procedures. The paper has not examined: differences in practices among prosecutors' offices, Variations in regulatory interpretations, or Inequalities in SOPs. Gap: There has been no study of national harmonization in the application of restorative justice.
4. The perspective of the victim has not been deepened. Although it discusses victim participation, this study has not explored in depth: Victim psychology, Post-accident trauma, Long-term perception of restorative justice. Gap: Lack of victimology-based studies.
5. Digitalization and Technology Aspects. The paper has not discussed Case information systems, Online mediation, Digital documentation, or IT-based monitoring. Gap: Has not examined the integration of technology in restorative justice.
6. Long-term evaluation. The research is still short-term. Gap: There has been no longitudinal study of the policy's long-term impact.

CONCLUSION

The application of restorative justice in handling traffic accident cases, based on the Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2020, provides a more humane alternative for settling criminal cases. These regulations permit the termination of prosecutions of perpetrators of traffic accidents if they meet the principles of restorative justice, which focus on recovering losses arising from criminal acts through dialogue and active participation among perpetrators, victims, and the community. Despite its great potential, the implementation of restorative justice faces challenges, particularly related to law enforcement officials' understanding, limited resources, and resistance from the community and perpetrators. However, with the active participation of the community, the commitment of law enforcement officials, and the readiness of perpetrators and victims to engage in dialogue, the application of restorative justice can achieve a just settlement and prioritize recovery over punishment alone.

Supporting factors that facilitate the implementation of prosecution termination based on restorative justice in traffic accident cases include clear regulatory support, the active roles of perpetrators and victims, and community involvement in fostering an environment conducive to peaceful settlement. However, there are also inhibiting factors, including a lack

of understanding of restorative justice, the unpreparedness of law enforcement officials, and limited infrastructure. One of the major challenges is the victim's or his family's disapproval of a settlement that does not include criminal penalties. Therefore, continuous training for law enforcement officials and socialization to the community is essential to optimize the application of restorative justice in order to create a more equitable and restorative-based justice system.

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