

Ideal Traffic Accident Crime Case Resolution based on Restorative Justice

Adi Kurnia Setiadi, Fauzie Yusuf Hasibuan, Maryano

Universitas Jayabaya, Indonesia

*e-mail: typ.jayabaya@gmail.com

Keywords

Traffic, Accident Crime, Restorative Justice

ABSTRACT

This study focuses on the first problem of solving traffic accident criminal cases that have been applied in law enforcement and how to reconstruct the ideal traffic accident crime resolution based on a restorative justice approach. The method used in this study is normative juridical research with a research approach in the form of a normative approach. The result of this study is that the settlement of criminal cases of traffic violations in Indonesia to date (ius constitutum), basically still prioritizes conventional legal approaches and criminal sanctions. Cases of traffic accident violations are processed and resolved within the framework of the criminal justice system normally, starting from the police, prosecutor's office, and court levels, according to the criminal procedure law, (2) Reconstruction of the settlement of traffic accident violations is very likely to be applied in Indonesia with several non-litigation models (mediation), namely the independent perpetrator-victim mediation approach and perpetrator-victim mediation involving law enforcement (restorative justice agencies). Settlement efforts through the courts can only be pursued if restorative efforts fail to reach an agreement. With these results, it is suggested: (1) The police, prosecutors, and courts should be more intensive to socialize and provide education related to the application of restorative justice, especially for traffic accident crimes, (2) The principle of restorative justice needs to be realized in the main legal form, namely a law that comprehensively and integratively covers the regulation of all components of the criminal justice system.

INTRODUCTION

Transportation plays a very fundamental role in modern human life, namely to support the mobilization of goods and people from one region to another (Khan, 2016). The mobility of goods and people today continues to increase along with the increasing needs of the community due to the increasing population, thus requiring transportation support with adequate quantities (Tirachini & Cats, 2020). Especially in urban areas, people can hardly be separated from transportation needs to support their daily activities, such as work, school, shopping, traveling and other activities (Poyrazli & Grahame, 2007). On the one hand, the existence of transportation is needed by humans, but on the other hand, it also raises crucial problems, especially related to traffic accidents. A traffic accident is an unexpected and accidental road event involving vehicles or other road users resulting in human casualties and property loss. Globally, Gopalakrishnan p Transportation plays a very fundamental role in modern human life, namely to support the mobilization of goods and people from one region to another (Edwards-Schachter, 2018). The mobility of goods and people today continues to

increase along with the increasing needs of the community due to the increasing population, thus requiring transportation support with adequate quantities (Giles-Corti et al., 2016). Especially in urban areas, people can hardly be separated from transportation needs to support their daily activities, such as work, school, shopping, traveling and other activities (Pucher & Buehler, 2008).

On the one hand, the existence of transportation is needed by humans, but on the other hand, it also raises crucial problems, especially related to traffic accidents (Swan, 2015). A traffic accident is an unexpected and accidental road event involving vehicles or other road users resulting in human casualties and property loss (Lubis, 2022). Globally, Gopalakrishnan points to the most concerning facts related to road accidents, namely: (1) worldwide an estimated 3,247 people die every day as a result of accidents and is the second leading cause of death among people aged 5–29 years, (2) injuring or disabling between 20 million and 50 million people per year, (3) ranked 11th cause of death and responsible for 2.1% of all deaths globally, (4) 90% of deaths occur in low- and middle-income countries, (5) more than half of accidental deaths among young adults between 15–44 years and 73% of all victims are male, (6) accidental injuries are the third largest contributor to the global burden of disease, (7) accidents are estimated to increase by 83% in developing countries and decrease by 27% in developed countries, (8) Each year costs a huge amount (Gopalakrishnan, 2012).

Article 3 of the Law explains the objectives of traffic and road transportation which include: (a) the realization of safe, safe, orderly, smooth, and integrated Road Traffic and Transport services with other modes of transportation to encourage the national economy, promote general welfare, strengthen national unity and unity, and be able to uphold the dignity of the nation; (b) the realization of traffic ethics and national culture; and (c) the realization of law enforcement and legal certainty for the community.

Thus, the presence of Law Number 22 of 2009 becomes one of the means for law enforcement and legal certainty (Moroni, Buitelaar, Sorel, & Cozzolino, 2020). Especially related to the rules governing law enforcement of traffic accident cases, criminal justice is applied to the perpetrators, as mentioned in Article 230, namely "Traffic Accident Cases as referred to in Article 229 paragraph (2), paragraph (3), and paragraph (4) are processed by criminal justice procedures in accordance with the provisions of laws and regulations".

Law enforcement of traffic accident problems means entering the realm of criminal law (Bachman & Schutt, 2013). Criminal Law as a special sanction law, has privileges not only from its position that strengthens the enforcement of other branches of legal science, but also from the form of sanctions regulated by the criminal law itself (Anleu, 2009). The form of sanctions provided by the criminal law provides suffering from the heaviest, namely the death penalty, imprisonment, confinement, and up to fines. Criminal law enforcement is placed in the last position after other law enforcement processes (civil or state administration) with strict restrictions (Van der Meijden, Van Bemmelen, Kooi, & Post, 1984). This adagium is applied at the level of legislation or regulation formation, where the framer of the law will consider whether there are other alternatives that can be taken to achieve the goals of the framer of the law other than passing criminal provisions in the law under discussion (Husak, 2004).

As a tool to maintain order and efforts to realize the values of life in society, criminal law should develop in accordance with the values that live in society (Jaya, 2005). Therefore, in order to create effective and balanced criminal law enforcement, reform is needed by taking into account the rights of criminal offenders, victims of criminal acts and the community, so that justice can be realized in law enforcement.

As stated by Friedman (Prayitno & Dieny, 2012), that law acts as a means of supervision or social control (social control), a means of dispute settlement (dispute settlement) and a means of social engineering (social tool engineering). One legal approach that is evolving and continues to be voiced today is the restorative justice approach. Restorative justice is said to be the struggle against injustice in the most restorative way and offers practical guidance on how to live a good life as a democratic citizen (Von Hirsch, et al, 2003).

Restorative justice serves as a means to reintegrate wrongdoers into communities where wrongdoers cause harm. The function of reintegration is the embodiment of the understanding that a crime not only causes harm, but also affects and damages relations in the society in which the crime was committed. Therefore, if the perpetrator is successfully reintegrated into society through the use of restorative justice processes, the reintegration function will fulfill its purpose by creating the possibility to repair fractured relationships in a crime society (Pali, Forsyth, & Tepper, 2022).

Especially in Indonesia, restorative justice also deserves to continue to be developed in its application to cover various weaknesses in the application of the criminal justice system. Related to this, Tumpa (2011) explained that the discourse of restorative justice that improves the existing criminal justice system, because initially the purpose of punishment was only aimed at criminal offenders (Rethliutive Theory), then punishment was directed at a new orientation where the resolution of criminal cases was expected to benefit all parties related to the case.

The application of the principle of the restorative justice approach is actually not a new approach, but has existed since ancient times. This is as explained by Effendy (2012) that the restorative justice approach is

assumed to be the most recent shift from various models and mechanisms that work in the criminal justice system in handling criminal cases today, although this movement has begun in the era of 1970 in North America and Europe which was marked by the presence of the Victim Offender Reconciliation Program in Ontario, then Discovery in Indiana and England, Even since 21 centuries ago when Jesus or Isa spread the New Testament Gospel and 14 centuries ago with the presence of Islam has introduced the principle of restorative justice which is respectively in the form of the principle of Love and Qishosh which is replaced with Diyat, which is to forgive and forgive."

Thus, in Indonesia, many people encourage the application of a restorative justice approach as an alternative to solving legal problems, including criminal law. It's just that in its implementation there are no clear standards that can provide legal certainty. Especially in the practice of criminal law enforcement related to traffic accidents in Indonesia, there are currently still inconsistencies between the application of the principles of redistributive justice and restorative justice. Some cases can be completed with peace between perpetrators and victims (restorative), but there are also other cases that even though there is peace between perpetrators and victims but the legal process still continues. This is because in the Criminal Code (KUHP), Indonesia does not regulate the existence of peace as a criminal abolition. In fact, with peace, conflicts in society have essentially been resolved. Based on this phenomenon, it is clear that criminal law enforcement prioritizes the aspect of legal certainty with a retaliatory perspective.

Second, provide recent studies in the area of the focus problem. These studies are needed to establish a state-of-the-art statement of the field of research and identify the limitations of recent studies. It could be written in two or three paragraphs.

Third, identify the gap between the recent studies and the current empirical and theoretical aspects of the focused study. Typically, the introduction should summarize relevant research to provide context and explain what other authors' findings, if any, are being challenged or extended. It could be written in one or two paragraphs.

Fourth, state the research question and research objectives based on the previous paragraph's gap analysis. Furthermore, please indicate the novelty of the research. It could be written in one paragraph.

METHODS

The type of research used in this study is juridical-normative, and is descriptive analytical using both primary, secondary and tertiary legal materials as the main data. Data analysis is carried out qualitatively with a theoretical abstract approach. While the approach used in this study is the statutory approach (statute approach) and concept approach (conceptual approach). The statute approach is carried out by reviewing all laws and regulations related to the legal issues being handled. While the conceptual approach is an approach that departs from the views and doctrines that develop in legal science.

The legal materials examined in this study consist of First, primary legal materials, namely: Code of Criminal Procedure, Law No. 22 of 2009 concerning Road Traffic and Transport (JULLAJ), other regulations relevant to restorative justice issues. Second, secondary legal materials, namely secondary legal sources in the form of books, articles in scientific journals, newspapers, magazines, and others related to the topic under study, and Third, tertiary legal materials, namely: dictionaries, encyclopedias, and others that explain more concisely from a study. These data are collected using the document study method.

RESULTS

Ius Constitutum Restorative Justice Approach in Indonesia

In Indonesia, criminal problems are generally regulated in the Criminal Code (KUHP) which until now is still the main reference in solving criminal cases. As the main reference for criminal law, the Criminal Code so far does not regulate the existence of restorative justice or mediation channels to resolve criminal problems. Therefore, the resolution of criminal problems is generally or prioritized to be resolved through court channels to prove the truth of the charges prepared by prosecutors against suspects. If the judge's verdict states that the defendant is found guilty, then the defendant must serve a criminal sentence according to applicable regulations with all the judge's consideration. Conversely, if the judge declares the defendant not guilty, then the defendant will be free from criminal prosecution.

In accordance with the times, the legal system also experiences development and shift. Restorative justice is beginning to be seen as an alternative to solving criminal law problems. The implementation of restorative justice is considered to be able to improve the current criminal justice system to benefit all parties related to the case and as a form of struggle against injustice (Tumpa, 2011; Von Hirsch, et al, 2003). The discourse of restorative justice continues to develop and continues to be voiced by many circles to date, including for restorative justice to be included in the revision of the Criminal Code.

The push to implement restorative justice received a positive response from law enforcement. This is evidenced by the issuance of a number of regulations from law enforcement agencies such as the Prosecutor's

Office, the Police, the Supreme Court related to solving cases through a restorative justice approach. There are a number of regulations related to the application of restorative justice.

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System

The restorative justice approach contained in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System as contained in Article 1 number 6 explains about restorative justice, The resolution process is carried out through diversion, namely the transfer of the resolution of child cases from the criminal justice process to processes outside criminal justice. Article 6 states that the objectives of diversion are: (a) achieving peace between the victim and the child, (b) resolving children's cases outside the judicial process, (c) preventing children from being deprived of liberty, (d) encouraging the community to participate, and (e) instilling a sense of responsibility to the child. In its implementation, the diversion process is carried out through deliberation involving children and their parents/guardians, victims and/or parents/guardians, Community Advisors, and Professional Social Workers based on the Restorative Justice approach. Deliberation can also involve Social Welfare Workers, and the community. The Diversion process must pay attention to: (1) the interests of the victim, (2) the welfare and responsibility of the child, (3) the avoidance of negative stigma, (4) the avoidance of retaliation, (5) community harmony; and (7) decency, decency, and public order.

Memorandum of Understanding

Restorative justice is explained in Article 1 point 2 of the Memorandum of Understanding with the Chief Justice of the Supreme Court, the Minister of Law and Human Rights, the Attorney General, and the Head of the National Police concerning the Implementation of the Adjustment of the Limitation of Minor Crimes and the Number of Fines, Quick Examination Events, and the Application of Restorative Justice. This memorandum of understanding was ratified on October 17, 2012. In this memorandum of understanding, restorative justice is given the following limitations: Restorative Justice is the settlement of minor criminal cases carried out by investigators at the investigation stage or judges from the beginning of the trial by involving perpetrators, victims, families of perpetrators/victims, and related community leaders to jointly seek a fair solution by emphasizing restoration to its original state".

The application of restorative justice to realize a fast, simple, and low-cost trial, as well as free, honest, and impartial against perpetrators of criminal acts. It is also aimed at reducing overcapacity in state detention centers and realizing justice with a human rights dimension.

In this memorandum of understanding, restorative justice is used in the context of solving minor criminal cases, namely by peace between the perpetrator, victim, perpetrator/victim's family, and related community leaders who are concerned with or without compensation. The settlement of minor criminal cases through restorative justice is carried out by police investigators or judges and confirmed in a written agreement. This restorative justice does not apply to repeat criminal offenders in accordance with the provisions of laws and regulations.

Circular Letter of the Chief of Police

The Circular Letter of the Chief of National Police No. SE/8/2018 concerning the Application of Restorative Justice in the Settlement of Criminal Cases passed on July 27, 2018 emphasizes the importance of implementing restorative justice in an effort to restore balance as a reflection of justice, as stated in number 2 letter b: with the development of the concept of law enforcement and the many problems related to the criminal law enforcement process in Indonesia. This is as stated in number 2 letter b that the development of law enforcement systems and methods in Indonesia shows the existence of tenderness following the development of community justice, especially the development of the principle of restorative justice which reflects justice as a form of balance in human life, so that deviant behavior and perpetrators of crimes are considered as behavior that removes balance thus the model of solving cases that Done is an effort to restore that balance, by imposing obligations on the perpetrator of the crime with the awareness of admitting mistakes, apologizing, and returning the victim's damage and losses as they were or at least resembling the original conditions, which can meet the victim's sense of justice"

Chief of Police Regulation

There are two regulations of the Chief of Police Regulation that address the issue of restorative justice. The first is Chief of Police Regulation No. 6 of 2019 concerning Criminal Investigation which was passed on October 4, 2019. In this regulation, it is explained about the definition of restorative justice, namely "Restorative justice is the resolution of criminal cases involving perpetrators, victims and/or their families and related parties, with the aim of achieving justice for all parties" Furthermore, there is also the National Police Regulation of the Republic of Indonesia No. 8 of 2021 concerning the Handling of Criminal Acts Based on

Restorative Justice, passed on August 19, 2021 that "Restorative Justice is the completion of acts criminal by involving perpetrators, victims, victims' families, community leaders, religious leaders, indigenous leaders or stakeholders to jointly seek a just solution through peace by emphasizing restoration to its original state"

Restorative justice can be applied at the investigative level if a number of conditions are met, both general and specific. For example, in the National Police Regulation of the Republic of Indonesia No. 8 of 2021, it is explained that the handling of criminal acts based on Restorative Justice must meet general and special requirements. General requirements include material and formal requirements. Material requirements include: (1) not causing unrest or rejection from the community, (2) not having an impact on social conflicts, (3) not having the potential to divide the nation, (4) not radicalism and separatism, (5) not perpetrators of repeating criminal acts based on court decisions, and (6) not criminal acts of terrorism, criminal acts against state security, criminal acts of corruption and criminal acts against people's lives.

While the specific requirements for criminal acts concern information and transactions of electronics, drugs and traffic. Especially for traffic crimes, special requirements include: (a) traffic accidents caused by driving a motor vehicle in a dangerous manner and circumstances that result in material losses and/or minor injuries; (b) road traffic accidents due to negligence resulting in human casualties and/or property loss

Attorney General Regulation

The Attorney General's Office also encourages the implementation of restorative justice regarding criminal cases. This is as stipulated in Attorney General Regulation Number 15 of 2020 concerning Termination of Prosecution based on Restorative Justice which was passed on July 21, 2020. In this regulation, restorative justice is explained that "Restorative Justice is the resolution of criminal cases by involving perpetrators, victims, families of perpetrators/victims, and other related parties to jointly seek a fair solution by emphasizing restoration to the original state, and not retribution".

Decision of the Director General of the General Judiciary of the Supreme Court

The Supreme Court through the Director General of the General Judiciary also issued guidelines that became the basis for the application of restorative justice. This is stated in the Decree of the Director General of the General Court of the Supreme Court of the Republic of Indonesia No. 1691/DJU/SK/PS.00/12/2020 concerning the Implementation of Guidelines for the Application of Restorative Justice which was ratified on December 22, 2020. In this decision, restorative justice is explained as follows: "Restorative justice is an alternative to solving criminal cases which in the mechanism of criminal justice procedures focuses on punishment which is transformed into a process of dialogue and mediation involving perpetrators, victims, families, perpetrators / victims and other related parties to jointly create an agreement for a fair and balanced settlement of criminal cases for victims and perpetrators by Promoting restoration back to its original state, and restoring the pattern of good relations in society"

In the annex to this decision, it is also explained that the basic principle of restorative justice is the restoration of victims who suffer from crime by providing compensation to victims, peace, perpetrators doing social work and other agreements. Fair law in restorative justice is impartial, impartial, not arbitrary, and only sides with the truth in accordance with applicable laws and regulations and considers equal compensation rights and balance in every aspect of life. Perpetrators have the opportunity to be involved in restoration, the community has a role to preserve peace, and the court has a role to maintain public order.

Presidential Regulation

Restorative justice also does not escape the attention of the executive, namely the President of the Republic of Indonesia. In the Presidential Regulation of the Republic of Indonesia Number 18 of 2020 concerning the National Medium-Term Development Plan 2020-2024, it is firmly stated that the restorative justice approach is one of the strategies for law enforcement in Indonesia. The restorative justice approach must be optimized by involving the role of customary institutions and other institutions that have competence and relevance, and in practice must prioritize efforts to provide rehabilitation, compensation, and restitution for victims, including victims of human rights violations. This affirmation also shows that there is already a strong political will to build a progressive legal system, especially with the application of a restorative justice approach.

From a number of rules that have been explained above, it can be seen that there is a spirit from law enforcement in Indonesia to apply restorative justice as an approach in solving criminal cases in various domains, including traffic accidents. A number of these regulations also indicate that law enforcement in Indonesia has a strong enough basis to apply restorative justice within the framework of solving criminal problems. From a number of rules above, in principle, there is a fundamental similarity in the concept of

restorative justice between law enforcement agencies. The point is that restorative justice is an effort to resolve criminal cases by prioritizing dialogue and deliberation among interested parties in the case and emphasizing efforts to restore the victim's condition. Thus, in principle, restorative justice moves away from the goal of punishment and retribution, but rather seeks to bring balance and recovery in the victim.

The Relevance of Restorative Justice to Pancasila Values

Pancasila as the basis of the state has been understood together to be the source of all sources of state law. Therefore, as a consequence, every law in force in this country must breathe Pancasila and must not conflict with the values contained in Pancasila. The spirit to reform the legal system must also be based on the values of Pancasila and must be kept away from group interests and practical political interests. Related to this, Yusriando explained that affirmation of Pancasila-minded values in Indonesia should be carried out in every stage, starting from the stages of legislation (making laws and regulations), implementation (investigation, prosecution, judgment in court), to the implementation of executions in prisons (Yusriando, 2015).

The basic ideas contained in the restorative justice approach do not actually conflict with the values contained in Pancasila and are in accordance with them. In other words, it can be understood that restorative justice is actually an implementation of the values contained in Pancasila. Restorative justice is a humanist approach, in which there are values such as consensus deliberation, justice, humanity, maintaining unity, help and brotherhood, where these values are contained in Pancasila.

Therefore, it is appropriate if restorative justice is applied in solving criminal acts in Indonesia widely, including in traffic accidents. One of the main keys in the principle of restorative justice is the existence of dialogue or deliberation, which is one of the main values of Pancasila, especially the fourth precept, namely "peoplehood led by wisdom in representative deliberation". The meaning contained in the philosophy of consultation or deliberation, the meaning contained is: prioritizing deliberation in making decisions for the common interest, and respecting every deliberative decision, the decisions taken must be morally accountable to God Almighty, upholding human dignity and dignity, the values of truth and human dignity, the values of truth and Justice prioritizes unity and unity for the sake of the common good. The 4th precept of Pancasila teaches to make a choice through deliberation.

Thus, it is very clear that the basic principles of restorative justice are very relevant to the values of Pancasila, especially in the fourth point on consensus deliberation. Akbar stated that deliberation in restorative justice is the embodiment of Pancasila values (Akbar, 2021). Atmoredjo (2019) also emphasized that deliberation is a manifestation of the Pancasila Philosophy, especially the value of social justice that must be created among all parties involved. Therefore, the application of restorative justice has become imperative in Indonesia, considering that this is in harmony with Pancasila which is the source of all sources of law. What is necessary and important to do is to formulate restorative justice at the conceptual and operational levels so that it can be applied in solving criminal cases.

The Relevance of Restorative Justice to Local Wisdom Values

In the formation of law, many things must be considered so that the law made successfully fulfills its purpose. The application of law has a broad dimension and has a major impact on the fabric of society, so it must be formulated systematically and carefully. In drafting laws, it must be kept away from interests that are not related to the interests of the nation in order to create laws that can truly organize society effectively and ultimately can achieve prosperity and prosperity.

One of the things that must be considered in making legislation is the culture inherent in society. This is relevant to what Friedman (2001) explained that in every legal system there are at least 3 (three) sub-systems, namely the legal substance sub-system (legal substance), the legal structure sub-system (legal structure), and the legal culture subsystem (legal culture). Especially legal culture, which concerns the issue of behavior (law) of society. This is certainly closely related to the values that prevail in the community, or commonly also called local wisdom. NCD and Wuri explained that legal culture is how people in their daily lives are accustomed to doing something that is in accordance with the norms that apply in society, thus impacting the development of the nation's character (Fitri & Wuri, 2020).

In another understanding, legal culture is also related to habits, views, ways of acting and thinking in general society that can influence social forces according to certain developmental directions (Masinambow, 2003). In addition, legal culture also deals with the same general responses of a particular society to legal phenomena as a unified view of legal values and behavior. Legal culture shows patterns of individual behavior as members of society that describe the same response (orientation) to the legal life lived by the community concerned (Hadikusuma, 1986).

From the above understanding, the main source of legal culture basically comes from none other than the values of local wisdom of the community. Certain local values are agreed upon as laws used to solve

various problems in society. The law as commonly referred to as customary law (*adat*). Customary law is essentially a living law, because it incarnates the legal feelings of the community, in accordance with its own nature continuously in a state of growth and development like life itself (Soepomo, 1980). Every community group generally has a culture, including normative devices or guidelines for behaving and behaving (Soemitro, 1988). Therefore, the values inherent in society should not be ignored in the law-making process in order for balance to occur in society.

The restorative justice approach is considered as an approach that can accommodate the values that live in the community or the values of local wisdom, and this is in accordance with the principles of lawmaking that need to consider cultural aspects. Related to this NCDs and Wuri explained that one of the efforts to transform the values of local wisdom towards law enforcement efforts is with a restorative approach, such as through a culture of mutual cooperation and deliberation to resolve criminal offense cases (Fitri & Wuri, 2020).

Many think that the restorative justice approach as a new or progressive approach in law enforcement, when in fact it has existed since ancient times which is as old as the criminal law itself (Van Ness, Strong, Derby, & Parker, 2022). Therefore, Levin (2005) explains that approaches considered obsolete, ancient and traditional are now expressed as progressive approaches. This illustrates that laws originating in the community are considered to be more effective in the law enforcement process, compared to laws that are created without looking at the roots of values in society.

The provision of punishment in customary law is also not much different from agreements made through the process of restorative justice. In section X *Pandecten van het adat*recht are shown examples of customary *sanksi* that can be given, such as: (a) compensation for immaterial losses in various forms such as coercion to marry a defiled girl, (b) payment of customary money to the affected person, in the form of magic objects in lieu of spiritual losses, (c) salvation to disclaim society from supernatural impurities, (d) cover of shame, apology, (e) corporal punishment to the death penalty, (f) exile from society and placing people outside the legal system (Wiranata, 2005).

Based on the description above, it is quite clear that the application of restorative justice actually has strong roots derived from the values of local wisdom. The value of local wisdom as a manifestation of culture in society so that it is relevant to the principles in law-making that must refer to culture (legal culture). Therefore, restorative justice deserves to be applied in Indonesia in solving the criminal problem of traffic accidents.

CONCLUSION

From the results of the study, it can be concluded that First, the settlement of criminal cases of traffic violations in Indonesia to date (*ius constitutum*), basically still prioritizes or prioritizes legal approaches and conventional criminal sanctions (retributive / retaliatory approaches). In this case, cases of traffic accident violations are processed and resolved within the framework of the criminal justice system normally, starting from the police, prosecutor's office, and court levels, according to the criminal procedure law. Every traffic accident case that is brought to court, almost all of them lead to a prison sentence and/or a fine to the perpetrator. On the other hand, there is actually a practice of peaceful efforts outside the court either with law enforcement mediation or not, but in particular efforts to resolve through restorative channels in court are still very minimal. The Police, Prosecutors, and Courts actually have legal signs to resolve criminal cases, especially those with minor categories or violations through a restorative justice approach. But in reality there are often different interpretations of the law regarding restorative justice. Most law enforcers tend to choose the "safe route", which is to solve cases by referring to the law as the main law that is higher in level and degree than other laws and regulations. In terms of solving cases of criminal violations of traffic accidents, Law No. 22 of 2009 concerning Road Traffic remains the main reference in determining the law for perpetrators of traffic accident crimes. Second, the reconstruction of the settlement of criminal acts of traffic accident violations is very likely to be applied in Indonesia. Apart from the fact that traffic accidents are not crimes but only violations, it is also seen from the benefits of the law that are more felt certainly, both for perpetrators, victims, society, and the state. Reconstruction according to restorative justice is the right choice to solve traffic accident criminal cases in Indonesia. The principle of restorative justice is in accordance with the basic values of Pancasila which serves as the source of all sources of law and also the values of local wisdom, especially values that uphold consensus deliberation to solve problems.

REFERENCES

- Anleu, Sharyn L. Roach. (2009). *Law And Social Change*. Sage.
- Bachman, Ronet, & Schutt, Russell K. (2013). *The Practice Of Research In Criminology And Criminal Justice*. Sage.
- Edwards-Schachter, Mónica. (2018). The Nature And Variety Of Innovation. *International Journal Of Innovation Studies*, 2(2), 65–79.

- Giles-Corti, Billie, Vernez-Moudon, Anne, Reis, Rodrigo, Turrell, Gavin, Dannenberg, Andrew L., Badland, Hannah, Foster, Sarah, Lowe, Melanie, Sallis, James F., & Stevenson, Mark. (2016). City Planning And Population Health: A Global Challenge. *The Lancet*, *388*(10062), 2912–2924.
- Husak, Douglas. (2004). The Criminal Law As Last Resort. *Oxford Journal Of Legal Studies*, *24*(2), 207–235.
- Khan, Mehmood Ul Hassan. (2016). Turkmenistan And Global Sustainable Transport Conference. *Defence Journal*, *20*(5), 73.
- Lubis, Muhammad Ansori. (2022). Legal Responsibility Of Public Transport Bus Drivers Due To An Accident Which Caused A Passenger To Die Based Law Number 22 Of 2019 Regarding Traffic And Road Transport (Study Of The Decision Of The Simalungun District Court Number 55/Pid. Sus/2019/Pn Sim). *Jurnal Darma Agung*, *30*(3), 917–930.
- Moroni, Stefano, Buitelaar, Edwin, Sorel, Niels, & Cozzolino, Stefano. (2020). Simple Planning Rules For Complex Urban Problems: Toward Legal Certainty For Spatial Flexibility. *Journal Of Planning Education And Research*, *40*(3), 320–331.
- Poyrazli, Senel, & Grahame, Kamini Maraj. (2007). Barriers To Adjustment: Needs Of International Students Within A Semi-Urban Campus Community. *Journal Of Instructional Psychology*, *34*(1), 28.
- Prayitno, Sigit Oktaviyani, & Dieny, Fillah Fithra. (2012). Perbedaan Konsumsi Cairan Dan Status Hidrasi Pada Remaja Obesitas Dan Non Obesitas. *Journal Of Nutrition College*, *1*(1), 144–152.
- Pucher, John, & Buehler, Ralph. (2008). Making Cycling Irresistible: Lessons From The Netherlands, Denmark And Germany. *Transport Reviews*, *28*(4), 495–528.
- Swan, Melanie. (2015). Connected Car: Quantified Self Becomes Quantified Car. *Journal Of Sensor And Actuator Networks*, *4*(1), 2–29.
- Tirachini, Alejandro, & Cats, Oded. (2020). Covid-19 And Public Transportation: Current Assessment, Prospects, And Research Needs. *Journal Of Public Transportation*, *22*(1), 1–21.
- Van Der Meijden, E., Van Bemmelen, Mariette, Kooi, Rinny, & Post, B. J. (1984). Nutritional Quality And Chemical Defence In The Ragwort-Cinnabar Moth Interaction. *The Journal Of Animal Ecology*, 443–453.
- Van Ness, Daniel W., Strong, Karen Heetderks, Derby, Jonathan, & Parker, L. Lynette. (2022). *Restoring Justice: An Introduction To Restorative Justice*. Routledge.