

Implementation of Restorative Justice in Traffic Accident Cases at Sukabumi City Police Station

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ABSTRACT

Background. The transportation sector is a sector that has an important role in improving the welfare of society. Therefore, the government issued the Law of the Republic of Indonesia Number 22 of 2009 concerning Road Traffic and Transportation as a guideline for the creation of safe and comfortable transportation.

Purpose. this research aims to find out how the implementation of restorative justice in handling traffic accident cases, especially at Sukabumi City Police. The method used in writing this thesis is a qualitative method with a normative juridical approach.

Method. This research uses a normative juridical approach. Normative juridical research is often called theoretical research because normative juridical research discusses doctrines or principles in law.

Results. The triggering factors for traffic accidents based on Law No.22/2009 are road negligence and vehicle negligence itself. In addition, there are internal factors that arise from humans such as carelessness, drowsiness, etc. Based on Law No.22 of 2009, there are no other events to resolve traffic accident cases other than criminal justice. However, Police Regulation No. 8 of 2021 on Handling Crimes Based on Restorative Justice provides a way to resolve traffic accident cases with restorative justice.

Conclusion. Based on the description above, it can be concluded that the concept of restorative justice is a concept that is expected to complement the shortcomings of the criminal justice system. The implementation of the concept of restorative justice in traffic accident cases in Sukabumi City has been running in accordance with Police Regulation No. 8 of 2021 Handling Crimes Based on Restorative Justice.

KEYWORDS

Traffic Accidents, Restorative Justice, Police Station

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INTRODUCTION

Humans continue to grow and give birth to civilization (Bahji dkk., 2021). As time goes by, humans are also required to adapt in order to maintain their survival (Fine dkk., 2019). This is the background of the birth of technology as it is today (Stawinska-Witoszynska dkk., 2021). Technology was created with the aim of helping humans. The rapid development of technology in recent decades has brought human civilization into an era where everything is fast and easy. Starting from the distribution



of information, human mobility that continues to increase in intensity, and various other conveniences.

Technology allows humans to move from one place to another very quickly. The form of this technology is a vehicle or means of transportation (Brodeur dkk., 2021). Unlike previous times where humans used animals to become their vehicles, or vehicles made by humans still require animal power as a driving force, now vehicles are equipped with a driving motor so that humans do not need to use animal power to move the vehicle (Price, 2022). Motorized vehicles are vehicles that are driven by technical equipment that is on the vehicle. Motorized vehicles can be grouped into several types, namely; motorcycles, passenger cars, buses, freight cars, and special vehicles.

Without realizing it, the rapid development of technology is like two blades for individual life and state life (Frisone dkk., 2020). If it does not get enough attention, technological development can be a dangerous thing, but on the other hand, if it is utilized and managed properly, it will encourage the growth rate in various sectors so that it can support national development.

The presence of transportation has an important influence on the life of the nation and state. Given Indonesia's archipelago geography and diverse population distribution patterns, transportation becomes an instrument that has a function as a connector (Ukhov dkk., 2021). On the other hand, the rapid development of motorized vehicles has triggered a high number of traffic accidents.

Therefore, to overcome the negative impacts and direct technological developments (in this case, means of transportation) in a positive direction, the government has issued regulations related to traffic (Auer & Griffiths, 2022). These regulations are contained in Law of the Republic of Indonesia Number 22 of 2009 concerning Road Traffic and Transportation.

Article 1 point 24 explains that a traffic accident is an unexpected and unintentional road event involving a vehicle with or without other road users that results in human casualties and/or property damage.

An accident is an event that is rare and uncertain when it occurs and is multi-factorial in nature which is always preceded by a situation where one or more road users have failed to cope with their environment."

The nature of the actions of the perpetrator of a traffic accident is a culpa offense, which is an unintentional or negligent act, or lack of caution, or unexpected and unintentional, resulting in human casualties and/or property damage (Mazar dkk., 2020). The explanation is contained in the Operational Standards and Procedures for Handling Road Traffic and Transportation Accidents based on Article 1 point 24 of Law No. 22 of 2009 concerning Road Traffic and Transportation.

Still based on the Operational Standards and Procedures for Handling Road Traffic and Transportation Accidents, the elements of a traffic accident include:

1. There is an event;
2. Occurs on the road;
3. The event is unexpected and unintentional;
4. Involves a vehicle;
5. With or without other road users;
6. Resulting in human casualties; and/or
7. Loss of property

Based on Article 229 paragraph (5) of Law No. 22 Year 2009, traffic accidents can be caused by road user negligence, vehicle negligence, and road and/or environmental negligence (Hing dkk., 2022). This is in line with the concept that refers to the epidemiologic triangle, which is a

modification of the Haddon Matrix, which states that there are three factors that mutually influence the occurrence of traffic accidents, namely agent (human factor), host (vehicle factor), and environment (road/environment factor)."

Traffic accident factors consist of 4 points, namely; road factors, such as imperfect road geometry, road damage or lack of road equipment (Claesdotter-Knutsson dkk., 2022). Environmental factors, such as bad weather (Louderback dkk., 2021). Vehicle factors, such as proper technical condition or improper use (Mutiarasari & Herawati, 2020). Road user factors such as the physical condition, skills and discipline of drivers and pedestrians.

Based on Article 229 of Law No. 22 Year 2009, traffic accidents are divided into three groups, namely:

1. Light traffic accidents. An accident that results in damage to vehicles and/or goods.
2. Moderate traffic accidents. An accident that results in minor injuries and damage to vehicles/goods.
3. Heavy traffic accident. An accident that results in death or serious injury.

What is meant by minor injuries are injuries that cause the victim to suffer pain that does not require hospitalization or other than those classified as serious injuries.

Serious injuries are as follows:

Falling ill and there is no hope at all or causing danger of death;

1. Continuous inability to perform the duties of office or work;
2. Loss of one of the senses;
3. Suffering from severe disability or paralysis;
4. Impaired thinking power for more than 4 (four) weeks;
5. Injuries that cause hospitalization for more than 30 (thirty) days.

A fatality victim is a victim who is confirmed to have died as a result of a traffic accident within a maximum period of 30 days after the accident.

In cases of traffic accidents, ordinary people are often misguided in the way they are resolved (Siboy dkk., 2023). The prevailing norm in the community is that in the event of a traffic accident, the parties must compensate for a number of losses, be it losses in the form of physical injury or vehicle damage (Butt & Siregar, 2021). With the fulfillment of compensation, the traffic accident case is considered over and reached an amicable agreement (Subekti dkk., 2021). If seen from a legal point of view, this is absolutely not justified.

Article 232 of Law No. 22/2009 states that every person who hears, sees, and/or knows of a traffic accident is obliged to report the accident to the police. With this explanation, traffic accident cases become ordinary offenses (*gewone delict*), which means that to carry out legal proceedings against the case does not require a complaint[6].

In the settlement of traffic accident cases, there are several legal bases, including:

Law of the Republic of Indonesia Number 22 of 2009 concerning Road Traffic and Transportation.

Article 230 of Law No. 22 of 2009 states that traffic accident cases as referred to in Article 229 paragraph (2), paragraph (3) and paragraph (4) are processed with criminal justice procedures in accordance with statutory provisions.

Article 235 of Law No. 22 Year 2009 as follows:

(1) If the victim dies as a result of a traffic accident as referred to in Article 229 paragraph (1) letter c, the driver, owner, and/or public transportation company is obliged to provide assistance to the victim's heirs in the form of medical expenses and/or funeral expenses without dropping the criminal case.

(2) In the event of injury to the victim's body or health as a result of a traffic accident as referred to in Article 299 paragraph (1) letter b and letter c, the driver, owner, and/or public transport company shall be obliged to provide assistance to the victim in the form of medical expenses without waiving the prosecution of criminal cases.

The above article explains that compensation is a form of social responsibility while criminal responsibility is something else.

Meanwhile, the fulfillment of victims' rights is also regulated in Article 236 of Law No. 22/2009 as follows:

(1) The party causing the traffic accident as referred to in Article 299 shall be obliged to compensate the loss, the amount of which shall be determined based on a court decision.

(2) The obligation to compensate as referred to in paragraph (1) in traffic accidents as referred to in article 229 paragraph (2) may be carried out outside the court if there is an amicable agreement between the parties involved.

Based on this explanation, compensation is an obligation of the party deemed to be the cause of the traffic accident.

The concept of justice in this legislation is restitutionary justice, which is justice that applies in the litigation process where the focus is on the perpetrator. How to punish and exonerate the perpetrator.

Regulation of the National Police of the Republic of Indonesia Number 8 of 2021 concerning Handling Crimes Based on Restorative Justice.

Based on Perpol No. 8 of 2021, restorative justice is the resolution of criminal acts by involving perpetrators, victims, victims' families (Koh, 2020), community leaders, religious leaders, traditional leaders, or stakeholders to jointly seek a fair solution through peace by emphasizing restoration to the state of all.

This is, in principle, the opposite path to the one outlined in Law No. 22/2009. Restorative justice is defined as a way of resolving cases (in this case traffic accident cases) that is more victim-oriented.

Based on the Regulation of the National Police of the Republic of Indonesia Number 8 of 2021 concerning Criminal Acts Based on Restorative Justice, restorative justice is the resolution of criminal acts by involving perpetrators (Koh, 2020), victims, families of perpetrators, families of victims, community leaders, religious leaders, traditional leaders, or stakeholders to jointly seek a fair settlement through peace by emphasizing restoration to the original state.

There is an understanding that positions the principle of restorative justice outside the criminal justice system (Ali dkk., 2021). Thus, this view of the principle of restorative justice is considered as a concept of case settlement that is equivalent to the concept of Alternative Dispute Resolution (ADR) which works entirely outside of criminal justice (Formosa dkk., 2020). In the case of traffic accidents, the fulfillment of victims' rights and the restoration of conditions like all are considered more important than imposing punishment on the perpetrator who accidentally caused the accident.

Based on the description above, there are two ways to resolve traffic accident cases, namely litigation (criminal justice), and non-litigation.

What then becomes a problem is that these two applicable legal bases have conflicting content and implementation.

Based on the above background, it can be concluded that the problem formulation is as follows:

1. How is the implementation of restorative justice concept in handling traffic accident cases in Sukabumi City?
2. What are the supporting and inhibiting factors of the implementation of the concept?

The purpose of this research is to find out how the implementation of the concept of restorative justice in traffic accident cases in Sukabumi City.

RESEARCH METHODOLOGY

Research Approach

This research uses a normative juridical approach. Normative juridical research is often called theoretical research because normative juridical research discusses doctrines or principles in law.

Research Location

This research aims to find out how the implementation of the concept of restorative justice in traffic accident cases in the Sukabumi City area (Selten dkk., 2020). Therefore, Sukabumi City Police became the choice of research location (Miernicki dkk., 2019). Sukabumi City Police has a Traffic Accident Unit (Laka Lantas Unit) whose office is located separately from Sukabumi City Police (Fair dkk., 2020). Located at Jl. Kabandungan, Parungseah, Gunungguruh sub-district, this office is the center of data collection and settlement of traffic accident cases in Sukabumi City.

Data types and sources

Primary Data

Primary data is field data obtained from interviews involving resource persons (Lebano dkk., 2020). In this research, primary data is sourced from the results of interviews with resource persons who are the Head of the Laka Lantas Unit at Sukabumi Police.

Secondary Data

Secondary data is data obtained from official documents, books related to the object of research, research results in the form of reports, theses, theses, dissertations, and laws and regulations.

Secondary data can be obtained from the following legal materials:

Primary Legal Materials

Primary legal materials are legal materials that have authority. Primary legal materials consist of:

- (a) Hierarchical or tiered legislation (Yermolenko dkk., 2022), the Criminal Code (KUHP), the Criminal Procedure Code (KUHP), and other laws and regulations;
- (b) Official records or minutes in the making of a law and regulation, for example, academic studies needed in the drafting of laws and regulations and / or regional regulations;
- (c) Judge's decision

Tertiary Legal Materials

Tertiary legal materials are legal materials that can help clarify secondary legal materials. Examples are dictionaries, encyclopedias, newspapers, and others.

Data Collection Method

1. Direct interview with resource persons at the research location in Sukabumi City.
2. Literature Study with steps such as searching and analyzing library materials related to the research topic.

Data Analysis

This research uses qualitative methods in the form of data descriptions in the form of concise and clear sentences so that it is easy for readers to understand.

RESULT AND DISCUSSION

The Concept of Restorative Justice

Restorative justice consists of two words, "restoration" which means repair; recovery; or restoration, and "justice" which means justice. "restorative" means (noun) a remedy that heals/strengthens/refreshes (Yakameran dkk., 2021); (adjective) that strengthens, heals, or refreshes. It can be concluded that Restorative justice is linguistically defined as healing justice, or restorative justice.

Howard Zehr defines restorative justice as a process that allows the involvement of a wider range of parties, namely parties who have an interest or a specific offense (Saadatzaheh dkk., 2019). Then jointly identifying and directing losses, needs, and obligations in order to heal and place the parties as possible points to be resolved."

Tony Marshall defines restorative justice as a process in which all parties with an interest in a particular offense meet together to jointly resolve how to resolve the consequences of the offense for the future."

In United Nations Releases, the Handbook of Restorative Justice Programmers published in 2006, as a result of the 11th United Nations five-year congress, reflects a new paradigm to avoid conventional justice that emphasizes retributive justice imposed on offenders (Dalen dkk., 2019). In this case, Restorative Justice was introduced as a popular alternative in resolving criminal cases, because it offers a comprehensive and effective solution.

Muladi defines that justice based on the peace of the perpetrator, victim, and society is the moral ethic of restorative justice, therefore justice is carried out as the "Just Peace Principle" (Takahashi dkk., 2020). This principle reminds us that justice and peace are basically inseparable. Peace without justice is oppression, justice without peace is a new form of persecution/oppression."

Howard Zehr and Ahmad Ali explicitly distinguish the focus of orientation in the principle of Restorative justice and the principle of Retributive Justice (Akers dkk., 2020). The principle of Retributive Justice (criminal justice) focuses its orientation on the offender, namely how to punish the offender, to punish the offender to change the sanction system into an educational and correctional process. Meanwhile, the principle of restorative justice focuses on the victim of crime, namely how to fulfill the sense of justice of victims who are harmed or suffer as a result of criminal acts."

Restorative justice understands crime not merely as a violation of state law, but rather as a violation of the prevailing justice in society."

Criminal Political Theory

Criminal politics is essentially inseparable from efforts to protect society and efforts to achieve public welfare. Therefore, it can be said that the main objective of criminal politics is the protection of society to achieve public welfare."[13]

The definition of criminal policy or criminal politics (Criminal policy) according to Sudarto is a rational and organized effort of a society to tackle crime."[14]

According to Sudarto, criminal policy has several meanings, namely:

1. In a narrow sense, namely the overall principles and methods that form the basis of reactions to violations of the law in the form of crime.
2. In a broad sense, namely the overall function of law enforcement officials including the workings of the courts and the police.

3. In a broader sense, namely the overall policy carried out through legislation and official bodies, which aims to enforce the norms of society.

To overcome crime, according to Barda Nawawi Arief, criminal politics can be described in various forms, including: [13]

1. Application of criminal law (criminal law application)
2. Prevention without punishment, and
3. Influencing views of society on crime and punishment through mass media.

In principle, criminal politics is a tool for public policy to achieve public welfare as stated in the 1945 Constitution as the constitution of the Unitary State of the Republic of Indonesia.

The results of this research are:

How is the implementation of restorative justice concept in handling traffic accident cases in Sukabumi City?

Every traffic accident case has a different impact of loss. In accordance with Law No. 22 Year 2009, traffic accidents are classified into minor accidents, moderate accidents, and serious accidents so that each group is threatened with different punishments. In the implementation of restorative justice based on Police Regulation No. 8 of 2021 concerning Handling Criminal Acts Based on Restorative Justice does not look at these groups. As long as a peaceful agreement is reached and the conditions are met, restorative justice can be applied. However, based on the results of an interview with Mr. Jajat Munajat on 9 May 2023, there is a slight difference in cases where the victim died.

Based on the interview with Mr. Jajat Munajat on 9 May 2023, the implementation of restorative justice in traffic accident cases will be easier in cases of minor and moderate accidents depending on the amount of loss caused. If there are physical losses in the form of minor injuries or material losses that are not large and the parties meet an amicable agreement by agreeing on the amount of compensation, the restorative justice process can be said to be successful. However, if the traffic accident results in serious injuries or even death, and there are substantial material losses, restorative justice tends to be difficult to implement[15].

In implementing the concept of restorative justice, the police refer to Police Regulation No.8 of 2021 concerning Handling Crimes Based on Restorative Justice. There are requirements that must be met by the parties so that the concept of restorative justice can be implemented. Based on Article 3 of Police Regulation No.8 of 2021 on Handling Criminal Offenses Based on Restorative Justice, handling of criminal offenses based on restorative justice as referred to in article 2 must fulfill the following requirements: (a) General; and/or; (b) Special. Article 4 divides the general requirements into two parts including: (a) material requirements; and (b) formal requirements.

The material requirements are contained in article 5, including:

- a. Not causing unrest and/or rejection from the community;
- b. No impact on social conflict;
- c. Does not have the potential to divide the nation;
- d. Not radicalism and separatism;
- e. Not a repeat offender of a criminal offense based on a court decision; and
- f. Not a criminal offense of terrorism, criminal offense against the state, criminal offense of corruption, and criminal offense against the life of a person.

The formal requirements are contained in article 6, namely:

- 1) Peace from both parties, except for narcotics offenses; and
- 2) Fulfillment of victims' rights by the perpetrator, except for narcotics crimes.

Based on Article 6 paragraph (2), peace is proven by a peace agreement letter signed by the parties.

Fulfillment of victims' rights and perpetrators' responsibilities based on article 6 paragraph (3) can be in the form of:

- 1) Returning the goods;
- 2) Compensate for the loss;
- 3) Replace costs incurred as a result of a criminal offense; and/or
- 4) Replace the damage caused by the criminal offense.

Based on article 6 paragraph (4), the fulfillment of these rights is proven by a statement letter in accordance with the agreement signed by the victim.

The special requirements based on article 7 are additional requirements for criminal offenses: (a) Information and electronic transactions; (b) Narcotics; and (c) Traffic.

Article 10 contains special requirements for traffic crimes, including:

- 1) Traffic accidents caused by driving a motor vehicle in a dangerous manner and condition resulting in material loss and/or minor injuries; or
- 2) Road traffic accidents due to negligence resulting in human casualties and/or property damage.

In Article 10 paragraph (2) above that what is meant by human victims refers to Law No. 22 of 2009 concerning Road Traffic and Transportation is victims who suffer minor, moderate, severe injuries, and death. In other words, in Perpol No.8 of 2021 concerning Handling Crimes Based on Restorative Justice, it is said that in cases of accidents with human victims suffering from minor, moderate, severe injuries, or death, restorative justice can still be implemented as long as it meets the formal and material requirements.

In its implementation, law enforcers in this case the police at Sukabumi City Police based on the results of interviews with Mr. Jajat Munajat as Kanit Laka Lantas said that not all accident cases were resolved with restorative justice. For example, in cases of accidents that resulted in fatalities. In cases where there are fatalities, the legal process continues with the aim of ensuring the rights and obligations of the parties involved in the accident. If there are restorative justice efforts such as compensation and mutual agreement, then these act as mitigating circumstances for the perpetrator, not as a case settlement. Legal procedures are still carried out but cannot be separated from the humanitarian aspect. Interview with Mr. Jajat Munajat as Kanit Laka Lantas Polres Kota Sukabumi on May 09, 2023.

The police have a duty as law enforcers as well as protectors of society. the police work by not ignoring human rights which in this case are the rights of the families of the victims who died. However, the implementation of the traffic accident case that occurred on Jalan RA Kosasih, Sukaraja, Sukabumi, West Java on Thursday, October 22, 2022, which resulted in three deaths and damage to local buildings, the police actually overruled Police Regulation No. 8 of 2021. The perpetrator has fulfilled his obligation to compensate for the loss. Compensating for losses is a social responsibility. By fulfilling this obligation, it does not abrogate criminal responsibility. It is known based on the results of the interview, in this case, the police did not use restorative justice in resolving the case. The police conducted an investigation and investigation followed by the submission of the investigation report to the prosecutor's office. Based on the results of the author's analysis, it can be concluded that the implementation of restorative justice in traffic accident cases can be hindered by the principle of the police itself which prioritizes the principles of humanity so that according to the author, the implementation of restorative justice in traffic accident cases based on the Regulation of the National Police of the Republic of Indonesia Number 8 of 2021

concerning Handling Crimes Based on Restorative Justice is still ambiguous because Perpol No. 8 of 2021 itself has not regulated in detail how the concept of restorative justice in traffic accident cases should be implemented.

Meanwhile, based on the results of an interview with Mr. Jajat Munajat, in accident cases that result in minor and moderate injuries, the concept of restorative justice is easier to implement. In fact, the implementation of restorative justice in accident cases with minor and moderate injuries is considered to provide more justice for perpetrators and victims. The victim can quickly get compensation in the form of hospital fees or medical expenses and the perpetrator is also not deprived of his freedom by criminal sanctions so that he is free from the negative stigma of society. This is in line with the development of law in society where in principle the concept of restorative justice is a renewal or complement to the existing legal system. However, in cases where the victim dies, the implementation of restorative justice is hampered by the principle of prioritizing human rights which is upheld by the police.

The main point of police performance is to prioritize human values where in cases with dead victims, restorative justice is put aside first to prioritize human values so that the handling is carried out with criminal procedures. However, if in the midst of the investigation, the parties involved in the accident are both moved by their conscience and both realize that it is a disaster, have forgiven each other and established good relations between the two, there is also an agreement in terms of providing compensation to the family of the deceased, then restorative justice can be implemented. As long as it is good for the parties and feels more beneficial, then the peace agreement is valid.

In the facts on the ground, he said that in the implementation of restorative justice in traffic accident cases, there are humanitarian aspects in addition to legal aspects. Police Regulation No. 8 of 2021 is a legal aspect but its implementation is inseparable from police policy. If the humanitarian aspect is fulfilled, the police can take a policy even though the policy is contrary to the legal aspect in order to prioritize the humanitarian aspect. Ibid.

Meanwhile, based on data obtained directly from the Laka Unit of Sukabumi City Police, it shows that the number of traffic accident cases resolved with restorative justice is quite high, namely 15 cases out of a total of 25 cases as of March 2023, but the data may change considering that it is only the first quarter data in 2023. Based on the interview results, according to data from previous years, the average settlement of traffic accident cases with restorative justice reached above 50%. This shows that restorative justice as an alternative to traffic accident case settlement is working quite well.

If we look at the ultimate goal of restorative justice itself, which is to reduce the number of detainees in prison; eliminate stigma and return criminals to normal human beings; criminals can realize their mistakes so that they do not repeat their actions, and this can reduce the workload of the police, prosecutors, detention centers, courts, and prisons; save state finances, do not cause resentment because the perpetrator has been forgiven by the victim; victims quickly get compensation; empower the community in overcoming crime and; reintegration of criminals in society, then the success rate above 50% is quite high. However, this figure should be even higher considering that there are several inhibiting factors that, if overcome, will make the program more successful.

This has a good impact on increasing the number of traffic accident cases handled with the concept of restorative justice.

Based on its form, the implementation of the concept of restorative justice in traffic accident cases at Sukabumi City Police uses the form of Family Group Conferencing where the people

involved are not only perpetrator-victims but also involve people related to the main parties such as family, friends, and professionals.

What are the supporting and inhibiting factors of the implementation of the concept?

Supporting Factors

The concept of restorative justice is interpreted as an alternative way of resolving a criminal case that involves the participation of the perpetrator, the victim, the perpetrator's family, the victim's family, and other interested parties with the aim of fulfilling a sense of justice for the community by focusing on restoring the situation as it was before the crime occurred. This concept is expected to be able to cover the shortcomings of the criminal justice system which focuses more on providing punishment for the perpetrators of criminal acts and seems to ignore the rights of victims. However, regardless of the purpose, there are always two opposing sides, namely the side that supports the implementation and the side that hinders it.

Supporting factors are important to know as a benchmark of what is needed for the realization of the concept of restorative justice in traffic accident cases so that it can develop significantly and on target in a better direction. In implementing the concept of restorative justice in traffic accident cases, there are several supporting factors, namely as follows:

Special Training for Police Members of the Traffic Accident Unit

Law enforcers, in this case the police, have a very important role in implementing the concept of restorative justice in traffic accident cases. the police act as mediators and facilitators so that both parties can find the desired agreement. The police must also ensure that the implementation of this peaceful settlement of traffic accident cases can provide more benefits than harm and must also ensure that this peaceful agreement will not become a new dispute in the future, therefore the skills, knowledge, and understanding of a police officer of the concept of restorative justice are very important so that this concept can be implemented correctly and on target.

The police, whose main task is to serve and protect the community, must of course go hand in hand with the development and legal needs needed by the community. every new regulation certainly has special skills in implementing it so that special trainings must be held in order to improve the quality of the police members themselves.

Training related to Police Regulation No. 8 of 2021 on Handling Crimes Based on Restorative Justice has been held by West Java Regional Police, and Sukabumi City Police. The training was initially held at West Java Regional Police, then police officers who attended the training transmitted or disseminated their knowledge by holding training at Sukabumi City Police. This system aims to ensure that police officers can continue to improve their knowledge but do not abandon their obligations in providing services to the community.

This training is different from certification, but because certification is held alternately and periodically, at least with the training members of the police can understand how the concept of restorative justice can be applied properly.

Budget

Budget is one of the important factors that can support the development of an agency. In an effort to maximize development, of course there are budgets that are inevitable. The amount of the budget can describe how the development should be achieved, therefore the budget can be a benchmark for whether an agency is developing or not.

Based on the results of an interview with Mr. Jajat Munajat on July 26, 2023, Polri is currently budget-based, this means that every budget issued has gone through various long discussion and review processes so that the budget that comes down from the center has been

adjusted to the needs of the Police. Quality improvement efforts such as conducting training, socialization, comparative studies, and so on certainly require a budget. In this case at Sukabumi City Police, the budget received by the traffic accident unit in optimizing the implementation of restorative justice is considered to have met what is needed by the police.

Ease of Access

In its implementation, restorative justice is not something that can be organized using a digital system. The parties involved are required to seek an agreement by deliberation so that the only way to reach an agreement is to meet and sit together. However, with the rapid spread of information, the public can find out what are the terms and conditions that must be met in implementing the concept of restorative justice. In other words, information that can be accessed via the internet has helped the police in terms of socializing to the community.

Apart from this, the public can access information directly from the police. In contrast to accessing information that can be done via the internet and direct access to the police, in accessing its implementation, the public can go directly to the laka lintas unit. Members of the police will be as quick as possible to assist in mediating peaceful efforts to be made by the parties involved in the accident.

So far, there is no other way to access the implementation of restorative justice in traffic accident cases other than the manual way by meeting and interacting directly. Everything is still done manually in accordance with applicable regulations. However, so far the implementation of the concept of restorative justice in traffic accident cases can reach all circles in the sense that it does not look at the background of the parties. As long as restorative justice can provide a sense of justice for the parties involved, then it is legitimate to do so.

Police Legal Culture

The police are law enforcement officers who always develop with society. The police in carrying out their duties certainly have certain habits or patterns that have existed for a long time. This is continuously done so that it becomes a legal culture within the scope of the police.

In handling traffic accident cases as well as in efforts to prevent traffic accidents, police officers in the Laka Unit of Sukabumi City Police so far have a fairly good legal culture. In traffic accident cases, for example, the police will respond as quickly as possible to information related to accidents by directly visiting the scene of the crime or visiting the local police station to obtain information related to the accident. In carrying out various traffic operations, there is also a good culture where the police will take action according to procedures for vehicles that do not meet the requirements as well as other violations. In the implementation of restorative justice in traffic accident cases, there is also a good culture. The police will immediately welcome peaceful agreements from the parties involved and will immediately act as mediators in the peaceful process. There is no coercion from the police in the implementation of restorative justice, it is purely an agreement of the parties involved so that the police will try their best in carrying out their duties as mediators so that the agreement can be peaceful and justice can be achieved. In carrying out their duties as mediators, a police officer must be neutral or impartial to one of the parties. In the event that one of the parties offers a sum of money to a police officer with a specific purpose or commonly called a bribe, the Sukabumi City Police Laka Unit firmly rejects this and sticks to the proper legal procedures.

Police as an apparatus that directly intersects with phenomena in the field certainly experience many obstacles and difficulties, but if the internal police have a good legal culture and continue to maintain the legal culture, a good system will also be created considering the legal culture of the police and the legal culture of the community is inseparable. If the apparatus is

accustomed to accepting bribes, the community will also continue to do so, but if the apparatus firmly rejects this, there will be no community doing this.

Inhibiting Factors

The way of resolving cases with the concept of restorative justice is relatively new, therefore there are still misalignments or overlaps in several matters. Inhibiting factors are important to know as a benchmark for what things need to be minimized so that the concept of restorative justice in traffic accident cases can be implemented more efficiently, significantly and on target.

In its implementation, there are several factors that become obstacles in resolving traffic accident cases using restorative justice. Based on the results of direct interviews with Kanit Laka Lantas on July 26, 2023, the factors inhibiting the implementation of the concept of restorative justice in traffic accident cases at Sukabumi City Police can be concluded as follows:

Lack of Members

In 2022, Sukabumi City was inaugurated as a police city, based on Sukabumi Mayor Regulation No. 188.45/115-Huk/2022 on Sukabumi City as a Police City. However, this does not make the police force in Sukabumi City free from problems.

shortage of members. Insufficient or small numbers of members can affect the services provided to the community, more precisely the lack of members can affect the responsiveness of the police itself. The Sukabumi City Police Traffic Unit consists of several units including:

1. Regiden Unit (Registration and Identification of Motorized Vehicles)
2. Turjawali Unit (Regulating, Guarding, Escorting, Patrolling)
3. Laka Unit (Traffic Accident Law Enforcement)
4. Kamsel Unit (Safety Security)
5. Staff / Min Traffic

The total number of members of the Traffic Unit is 85 (eighty five) people. The number of police officers in the Laka Unit is 8 people consisting of a Unit Leader (Kanit) who is also an investigator, and 7 members who are also assistant investigators and are divided into 2 squads.

Based on an interview with Mr. Jajat Munajat as Kanit Laka, the ideal number of members of the Laka Unit at the Polres level is 20 people. In this case, the Laka Unit of Sukabumi City Police even needs an additional 2 personnel to fulfill half of it. Although Sukabumi City is a small city, with a population of 346.32 thousand people based on the 2022 census, it is fair to say that the Laka Unit of Sukabumi City Police is short of members.

He said that despite the shortage of members, he and his staff always try their best to provide services to the community, but it would be better if the number of personnel could be increased so that services to the community could be maximized. Based on the results of the interview, according to him with the experience he has passed, the addition of one team or approximately 3-4 more people is sufficient in maximizing service in the accident unit.

Based on the researcher's observation, when compared to Sukabumi City Police, the Laka Unit office is relatively quiet, for approximately 3 hours the researcher stayed in the office, there was only one guest who visited and was served by an officer. There were only 3 members in the office, including the officer himself. The researcher had to wait approximately 2 hours to be able to interview him because there was work that he could not leave. This clearly shows that the lack of members can greatly affect community service.

In terms of the implementation of restorative justice, given that there is only one main investigator in this office, it is quite difficult to schedule mediations because the investigator is also the head of the unit who has to deal with external parties from the traffic unit. This requires the unit leader to leave the office. Meanwhile, the other 7 members who are assistant investigators

cannot freely become mediators in the RJ process because if there is still a main investigator, then the main investigator must act as a mediator. Based on these observations, it can be concluded that personnel shortages can be a serious problem in the implementation of restorative justice in traffic accident cases.

Certification in implementing Restorative justice

Restorative justice can be said to be newly enacted. This makes various trainings on the implementation of restorative justice in traffic accident cases still need to be implemented and improved. In its implementation, in-depth knowledge and special skills are needed, so it is necessary to certify police officers in carrying out Restorative justice. Certification aims to ensure that a police officer has mastered a certain field so that his professionalism is not in doubt. This makes certification an absolute requirement.

In the Laka Unit of Sukabumi City Police, not all members have been certified. Based on the interview results, certification is carried out alternately because if it is done simultaneously it will affect the performance of police services. Certification is also not always carried out because there are certain times in its implementation. This is the reason why not all members in the Laka Unit of Sukabumi City Police are certified.

Community Legal Culture

The legal culture of the people of Sukabumi City is one of the inhibiting factors in the implementation of restorative justice in traffic accident cases. Sukabumi City's multi-cultural society affects the way people view traffic accidents. people's views on traffic accidents are divided into two perspectives. There are those who accept and realize that the accident is a disaster that is beyond their will, but there are those who think that an accident is a loss that means compensation is needed. Those who are in a favorable position tend to find it difficult to resolve their accident cases with restorative justice. They will demand compensation first, in the event of physical injury, they must fulfill medical expenses, in the event of damage, the vehicle must be returned to its original condition. However, the reality in the field shows that not everyone can fulfill the demands for compensation, especially if the amount is quite large. Restorative justice process in this case aims to reach an agreement on the amount of compensation, but if one party remains in its stance to demand its rights with a large amount and the other party feels unable to meet these demands, restorative justice will be difficult to implement.

Based on the researcher's observations, people in a favorable position tend to be ignorant of the ability of the other party. Parties in a favorable position tend to ask for legal certainty so that traffic accident cases run according to procedures so that what they demand can be fulfilled and so that there is no possibility of new problems arising in the future.

Legal Substance

Legal substance factors are factors derived from laws and regulations or legal provisions that currently exist and apply. Currently, the legislation used as the legal basis for traffic accident cases is Law of the Republic of Indonesia Number 22 of 2009 concerning Road Traffic and Transportation. The law fully regulates traffic accident crimes, starting from the classification of accidents, the classification of victims, to the sanctions imposed on the perpetrators of traffic accident crimes. However, this law has a contradictory nature with Police Regulation No. 8 of 2021. Article 229 of Law No. 22 Year 2009 contains the following classification of traffic accidents:

Traffic accidents are classified into:

- a. Light traffic accidents
- b. Medium traffic accident; or

c. Heavy traffic accident.

(2) Light traffic accidents as referred to in paragraph (1) letter a are accidents that result in damage to vehicles and/or goods.

(3) A moderate traffic accident as referred to in paragraph (1) letter b is an accident resulting in minor injuries and damage to vehicles and/or goods.

(4) Heavy traffic accidents as referred to in paragraph (1) letter c are accidents that result in death or serious injury.

This law does not explain other ways to resolve traffic accident cases apart from the criminal justice provisions. This is stated in Article 230 which states the following: Traffic accident cases as referred to in article 229 paragraph (2), paragraph (3), and paragraph (4) are processed by means of criminal justice in accordance with the provisions of laws and regulations.

Law of the Republic of Indonesia Number 22 of 2009 concerning Road Traffic and Transportation distinguishes between criminal liability and social responsibility attached to the perpetrator. This is based on Article 235 of Law No. 22 Year 2009 as follows:

(1) If the victim dies as a result of a traffic accident as referred to in Article 229 paragraph (1) huruf c, the driver, owner, and/or public transportation company shall provide assistance to the victim's heirs in the form of medical expenses and/or funeral expenses without waiving the criminal case.

(2) In the event of injury to the victim's body or health as a result of a traffic accident as referred to in Article 229 paragraph (1) letter b and letter c, the driver, owner, and/or public transport company is obliged to provide assistance to the victim in the form of medical expenses by not nullifying the criminal charges.

Related to the fulfillment of victims' rights, it is regulated in Law No. 22 Year 2009 Article 236 as follows:

(1) The party causing the traffic accident as referred to in Article 229 shall be obliged to compensate the loss, the amount of which shall be determined based on a court decision.

(2) The obligation to compensate as referred to in paragraph (1) in a traffic accident as referred to in article 229 paragraph (2) may be carried out outside the court if there is an amicable agreement between the parties involved.

Based on the contents of Article 235, there is an explanation that compensation is an obligation that must be carried out by the perpetrator, but it is a social responsibility and does not release a perpetrator from criminal charges. as for compensation, it is regulated in the next article, namely Article 236 of Law No. 22 of 2009.

CONCLUSION

Based on the description above, it can be concluded that the concept of restorative justice is a concept that is expected to complement the shortcomings of the criminal justice system. The implementation of the concept of restorative justice in traffic accident cases in Sukabumi City has been running in accordance with Police Regulation No. 8 of 2021 Handling Crimes Based on Restorative Justice.

In its implementation, there are supporting factors and inhibiting factors. The supporting factors are:

- 1) Specialized Training for Police Members of the Traffic Accident Unit
- 2) Budget
- 3) Ease of Access
- 4) Police Legal Culture

The inhibiting factors are:

- a) Lack of Members
- b) Certification in carrying out Restorative justice
- c) Community Legal Culture
- d) Legal Substance

AUTHORS' CONTRIBUTION

Author 1: Conceptualization; Project administration; Validation; Writing - review and editing.

Author 2: Conceptualization; Data curation; Investigation.

Author 3: Data curation; Investigation.

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