

Restorative Justice for Traffic Crimes Resulting in Fatalities : Ethical and Legal Considerations

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Abstract: The application of restorative justice (RJ) in fatal traffic accident cases in Indonesia still faces legal and normative challenges. This study uses a normative juridical method to analyze existing regulations and compare retributive justice with restorative justice within the Indonesian legal system. The findings show that while RJ offers a solution based on relationship restoration, Indonesia's legal system, dominated by retributive justice, still prioritizes criminal punishment as the primary resolution. Legal gaps and normative ambiguities are the main obstacles to the application of RJ in fatal accident cases. In conclusion, to optimize the application of RJ, legal reforms are needed to integrate RJ into Indonesia's judicial system, without neglecting victims' rights.

Keywords : Fatal traffic accidents, legal reform, retributive justice, restorative justice, restorative justice.

INTRODUCTION

Restorative justice (RJ) is an alternative approach in the criminal justice system that emphasizes restoring relationships between victims and perpetrators, as well as conflict resolution that prioritizes social rehabilitation and restorative justice, rather than focusing solely on punishment. This approach has been applied in various fields of law, but its application in traffic accident cases resulting in death is still very limited in Indonesia. Although restorative justice offers the potential to reduce the social and psychological impacts of conventional legal processes and provide more sustainable solutions for all parties involved, its implementation in the context of fatal traffic accidents still faces many challenges, both legally and normatively. One of the main issues that needs to be addressed is the existence of a legal vacuum regarding the application of restorative justice in cases of accidents resulting in death, as well as the discrepancy between theory and practice in the Indonesian legal system.¹

In the Indonesian legal system, traffic accident cases that result in death are usually processed with an approach that prioritizes criminal sanctions, such as imprisonment or fines, without considering the deeper social and rehabilitative dimensions. This approach ignores the possibility of a more reconciliatory settlement, which can provide more holistic justice for victims, perpetrators, and the community. Restorative justice, which prioritizes problem solving through dialogue and the restoration of

¹ Irwanto, A., Prihartanto, A. N., & Mulya, T. H. (2023). Enforcement of Restorative Justice in Traffic Crime Cases Which Causes Death. *International Journal of Social Science And Human Research*, 6(03), 1454-1460.



relationships between parties, has the potential to resolve conflicts in a more humane and sustainable manner.² However, the application of RJ in fatal traffic accidents in Indonesia is not fully supported by existing laws, raising the question of whether the punishment imposed on perpetrators truly creates justice, or instead worsens the situation for victims, perpetrators, and their families.

One of the main challenges faced in the application of RJ in fatal traffic accident cases is the legal vacuum regarding settlement mechanisms involving restorative justice. Although there are a number of regulations governing traffic accidents, such as Law No. 22 of 2009 concerning Road Traffic and Transportation, Indonesian law does not have specific regulations governing the application of restorative justice in fatal cases. This has caused confusion among law enforcement officials, who do not have clear guidelines on how to implement RJ in cases involving fatalities. This legal vacuum further highlights the need for more specific regulations that support the application of RJ in traffic accidents resulting in death.³

In addition, there is also ambiguity in the Indonesian legal system governing the settlement of traffic accident cases. In the existing legal system, the applicable norms place more emphasis on imposing sanctions on the perpetrators of accidents. Although there are alternative dispute resolution mechanisms, such as mediation, which can lead to an RJ approach, there are no clear norms governing the application of RJ in traffic accident cases resulting in death.⁴ Clarity regarding the application of RJ in Indonesian law is very important so that the public, law enforcement officials, and perpetrators can clearly understand how RJ can be applied in the settlement of accident cases that result in fatalities.⁵

In addition to legal vacuums and ambiguous norms, there is also a conflict between the principle of retributive justice, which dominates the Indonesian criminal justice system, and the principle of restorative justice contained in RJ. Retributive justice emphasizes the imposition of appropriate sanctions on perpetrators, such as imprisonment, while restorative justice focuses on restoring the relationship between the perpetrator and the victim and resolving the case through dialogue and agreement. The conflict between these two norms adds to the complexity of applying RJ in fatal traffic accident cases, as there is often tension between the effort to provide justice for the victim and the expectation that the perpetrator receive a punishment commensurate with their actions. This raises the dilemma of whether the RJ approach is acceptable in cases involving death.⁶

Previous studies have examined various aspects of the application of restorative justice in Indonesian law, but none have specifically discussed its application in traffic accident cases resulting in death. Research conducted by Irwanto, A., Prihartanto, A. N., & Mulya, T. H. (2023) in the article *Enforcement of Restorative Justice in Traffic Crime Cases Which Causes Death* shows that although RJ

² Kurnianingsih, M., & Pradana, A. B. (2024). Implementation of Restorative Justice in the Settlement of Traffic Cases with Minor Injury Victims in Wonogiri. *Law and Justice*, 9(2), 270-282

³ Focquaert, F., et al. (2024). Experiences, views, and attitudes of participants of a mediation dialogue group implemented within a restorative justice framework in the context of non-related traffic accidents in Belgium: a thematic analysis. *Criminal Justice Ethics*, 43(3), 259-284

⁴ Efendi, E., Yulia, Y., & Hamdani, H. (2022). Tindakan Kepolisian Dalam Menerapkan Restorative Justice Terhadap Pelaku Pelanggaran Lalu Lintas Yang Menyebabkan Kecelakaan Lalu Lintas (Studi Penelitian Di Polres Lhokseumawe). *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh*, 10(2), 508-523

⁵ Marpaung, Y. K., & Tanjung, A. S. (2024). The Implementation Of Prosecution Termination Based On Restorative Justice In Traffic Accident Cases Resulting In Death Due To Negligence At The Asahan District Prosecutor's Office. *International Journal of Economic, Technology and Social Sciences (Injects)*, 5(2), 256-266.

⁶ Rona, M., et al. (2020). Restorative justice in the settlement of traffic accident causing death toll according to the perspective of customary judiciary in Sanggau district, West Kalimantan. *Yustisia*, 9(1), 139-151.



can be applied in some accident cases, unsupportive regulations are a major obstacle to its implementation. Another study, conducted by Helena, L. A., Hakim, N., & Darodjat, T. A. (2025) entitled

“Reconstruction of Restorative Justice-Based Settlement of Traffic Accident Offenses,” emphasizes dispute resolution using RJ, but does not examine its application in fatal accident cases. Meanwhile, research by Muksalmina, M., & Wiratmadinata, W. (2023) in Application of Restorative Justice in Traffic Accident Cases only discusses the application of RJ in traffic accidents that do not result in fatalities.

The existing research gap is the lack of in-depth studies discussing the application of restorative justice in traffic accidents resulting in death, particularly regarding the legal and ethical challenges in its application in Indonesia. This study aims to fill this gap by exploring how RJ can be applied in fatal traffic accident cases and to identify potential changes in the Indonesian legal system that support its application.⁷

This study offers novelty by proposing a clearer normative framework regarding the application of restorative justice in traffic accident cases resulting in death in Indonesia. This study will also provide a more comprehensive analysis of the legal challenges faced and more in-depth policy recommendations to strengthen the application of RJ in the Indonesian judicial system.⁸

This study aims to analyze the application of restorative justice in traffic accident cases resulting in death, with a focus on the ethical and legal challenges faced in its implementation in Indonesia. This study will also explore solutions to optimize the application of restorative justice in this context and provide relevant policy recommendations for legal practice in Indonesia.⁹

Despite the increasing discussion of restorative justice (RJ) within Indonesian criminal law, there remains a significant research gap concerning its application in traffic accident cases resulting in fatalities. Existing studies predominantly examine restorative justice in non-fatal traffic accidents, minor offenses, or discretionary practices by law enforcement, without addressing the distinct legal and ethical complexities arising from cases involving loss of life. Moreover, prior research has not sufficiently analyzed the normative compatibility of restorative justice with Indonesia's retributive-oriented criminal justice system, particularly in relation to legal vacuums, ambiguity of norms, and normative conflicts within the Criminal Code and Traffic Law. Consequently, there is a lack of comprehensive normative guidance on whether and how restorative justice can be legally justified and ethically implemented in fatal traffic accident cases. This study seeks to fill this gap by providing a focused normative juridical analysis of restorative justice in traffic crimes resulting in death within the Indonesian legal framework.

METHODOLOGY

The method used in this study is normative juridical, which aims to analyze various legal provisions related to the application of restorative justice (RJ) in traffic accident cases resulting in death. This approach refers to a review of relevant legislation, such as the Criminal Code (KUHP), Law No. 22 of 2009 concerning Road Traffic and Transportation, and other regulations related to the settlement of traffic accident disputes. The methodological reference used refers to the book “Legal Research Methods”

⁷ Dona, F., et al. (2025). Implementing Restorative Justice in Criminal Case Resolution: A Socio-Legal Research. *Al-Ahkam: Jurnal Ilmu Syari'ah dan Hukum*, 10(1), 20-38

⁸ Dona, F., et al. (2025). Implementing Restorative Justice in Criminal Case Resolution: A Socio-Legal Research. *Al-Ahkam: Jurnal Ilmu Syari'ah dan Hukum*, 10(1), 20-38

⁹ Delmiati, S. (2024). Penyelesaian Kasus Kecelakaan Lalu Lintas Yang Menimbulkan Luka Berat Berdasarkan Keadilan Restoratif. *Unes Journal of Swara Justisia*, 8(3), 711-724.



by Sujadi, which discusses the use of a normative juridical approach in legal studies, as well as the importance of analyzing legal texts and regulations applicable in Indonesia.¹⁰

This study aims to explore whether existing norms in Indonesian law can support the application of restorative justice in traffic accident cases resulting in death. In this case, a normative juridical approach will be taken by analyzing and comparing legal theories related to restorative justice, both from a criminal law perspective and from an alternative dispute resolution theory perspective. One of the references used in this study is the book "Restorative Justice: An Introduction" by Howard Zehr, which explains the basic principles of restorative justice and its application in the context of criminal law.

In addition, this study will analyze the results of previous studies, such as the study by Irwanto, A., Prihartanto, A. N., & Mulya, T. H. (2023), which examined the application of restorative justice in traffic accident cases resulting in death, to provide a clearer picture of the challenges faced in its implementation in Indonesia.¹¹ Thus, this study aims to explore the potential application of RJ in the settlement of fatal traffic accident cases and to provide policy recommendations to optimize the implementation of RJ in the Indonesian legal system.

Overall, the normative juridical approach used in this study aims to provide a deeper understanding of the legal and normative challenges in the application of restorative justice, as well as to formulate policies that can improve the effectiveness of RJ implementation in traffic accident cases resulting in death.

RESULTS AND DISCUSSION

Legal Challenges in the Application of Restorative Justice in Fatal Traffic Accident Cases in Indonesia

Restorative justice (RJ) is an alternative approach that aims to repair relationships damaged by crime or offenses, including traffic accidents resulting in death. This approach emphasizes recovery and reconciliation between perpetrators, victims, and the community, by providing opportunities for perpetrators to understand the impact of their actions and take social responsibility. Although RJ offers a more humanistic solution oriented towards dialogue-based resolution, its implementation in the Indonesian legal system, especially in cases of traffic accidents resulting in death, still faces various challenges, particularly those related to legal loopholes in the applicable regulations.¹²

One of the main challenges in implementing RJ in fatal traffic accident cases is the existence of clear legal loopholes. In Indonesia, the Criminal Code (KUHP) and Law No. 22 of 2009 concerning Road Traffic and Transportation only provide guidelines regarding criminal sanctions for perpetrators of accidents that cause death, without providing clear space for the application of RJ. Although there are several alternative dispute resolution mechanisms, such as mediation, that can be used in certain cases, there are no specific legal provisions governing how RJ can be applied in traffic accident cases that result in fatalities.¹³

This legal vacuum creates uncertainty among law enforcement officials, such as judges and prosecutors, in determining the steps to be taken in implementing RJ in fatal traffic accident cases. In

¹⁰ Sujadi. *Metode Penelitian Hukum*. Jakarta: Rajawali Press, 2012

¹¹ Irwanto, A., Prihartanto, A. N., & Mulya, T. H. (2023). Enforcement of Restorative Justice in Traffic Crime Cases Which Causes Death. *International Journal of Social Science And Human Research*, 6(03), 1454-1460

¹² Irwanto, A., Prihartanto, A. N., & Mulya, T. H. (2023). Enforcement of Restorative Justice in Traffic Crime Cases Which Causes Death. *International Journal of Social Science And Human Research*, 6(03), 1454-1460

¹³ Focquaert, F., et al. (2024). Experiences, views, and attitudes of participants of a mediation dialogue group implemented within a restorative justice framework in the context of non-related traffic accidents in Belgium: a thematic analysis. *Criminal Justice Ethics*, 43(3), 259-284



practice, many law enforcement officials are hesitant to use a restorative justice approach because they feel they lack clear legal guidelines on how to do so.¹⁴ As a result, approaches that prioritize criminal punishment become the main option, which often only adds to the suffering of the victims and perpetrators, as well as the families of both parties. Without regulations that support the application of RJ in traffic accidents resulting in death, it is difficult to build better legal awareness of the benefits of this approach among the public and law enforcement officials. However, the challenge of this legal vacuum is not only limited to regulatory aspects, but also to a lack of in-depth understanding of the principles of restorative justice among the legal community. Many people still view RJ as an unrealistic concept or even incompatible with the criminal law tradition in Indonesia, which focuses more on imposing appropriate sanctions on perpetrators. In fact, RJ can help reduce social tension and restore social balance by giving perpetrators the opportunity to take social responsibility, while giving victims or their families the opportunity to express the emotional impact they have experienced as a result of the incident.

The application of RJ in fatal traffic accidents requires a paradigm shift in the Indonesian legal system. In this case, RJ must be seen as a complement to the criminal justice system, not a replacement. Although RJ cannot completely replace criminal punishment, its application can help provide a more comprehensive solution that is oriented towards restoring social relations. Therefore, legal reforms that support the implementation of RJ are needed, including the drafting of more specific regulations on how RJ can be applied in traffic accident cases resulting in death. In this case, the legislative role is very important in formulating laws that explicitly provide space for the application of RJ in cases such as these.

In addition, a change in the mindset of law enforcement officials is also necessary, so that they can see RJ as a mechanism that can improve social conditions. This approach is not only beneficial for the perpetrator, who can correct their mistakes and take responsibility for their actions, but also for the victim, who can have the opportunity to explore and internalize the impact of the accident they have experienced. Although RJ cannot always completely erase the suffering experienced by victims or their families, this approach provides space for a more humane resolution that prioritizes recovery over punishment alone.¹⁵

Overall, the main challenge in implementing RJ in traffic accident cases resulting in death in Indonesia is the legal vacuum that does not allow for the clear and structured application of this mechanism. Therefore, the first step that must be taken is to formulate more detailed and specific regulations regarding the application of RJ in such cases. Without supporting regulations, it is difficult for the legal community and law enforcement officials to implement RJ effectively, so that this practice remains limited to use in certain cases that do not involve fatalities. More in-depth legal reforms are needed to enable the application of RJ in traffic accident cases resulting in death, and to ensure that RJ can function as an effective alternative for a more humane resolution of social conflicts.¹⁶

¹⁴ Marpaung, Y. K., & Tanjung, A. S. (2024). The Implementation Of Prosecution Termination Based On Restorative Justice In Traffic Accident Cases Resulting In Death Due To Negligence At The Asahan District Prosecutor's Office. *International Journal of Economic, Technology and Social Sciences (Injects)*, 5(2), 256-266

¹⁵ Irwanto, A., Prihartanto, A. N., & Mulya, T. H. (2023). Enforcement of Restorative Justice in Traffic Crime Cases Which Causes Death. *International Journal of Social Science And Human Research*, 6(03), 1454-1460

¹⁶ Rona, M., et al. (2020). Restorative justice in the settlement of traffic accident causing death toll according to the perspective of customary judiciary in Sanggau district, West Kalimantan. *Yustisia*, 9(1), 139-151

Ambiguity of Norms in the Indonesian Legal System related to Restorative Justice in Fatal Traffic Accident Cases

One of the biggest challenges in applying restorative justice (RJ) in traffic accident cases resulting in death is the **ambiguity of norms** in the Indonesian legal system. Although RJ offers a more humanistic and relationship-oriented approach, its application in the context of traffic accidents resulting in death is not clearly explained in existing laws and regulations. This creates uncertainty for law enforcement officials regarding whether and how RJ can be applied in such cases. Indonesian law, particularly Law No. 22 of 2009 on Road Traffic and Transportation, prioritizes criminal sanctions against perpetrators of accidents that cause death without providing room for the application of RJ as an alternative dispute resolution.¹⁷

This ambiguity is mainly related to the difference between retributive justice in the Indonesian criminal justice system and the basic principle of restorative justice in RJ. Retributive justice emphasizes punishment as retribution for wrongdoing, while restorative justice focuses on restoring the relationship between the perpetrator and the victim and providing the perpetrator with the opportunity to take social responsibility. In Indonesia, the dominant approach is retributive justice, which places greater emphasis on imposing severe sanctions on perpetrators, especially in cases of fatal traffic accidents. This creates tension between the norms governing the punishment of perpetrators and the principles of restorative justice that prioritize the restoration of relationships.¹⁸

This difference in principles becomes even more apparent when compared to restorative justice practices implemented in other countries. Several countries, such as New Zealand and Canada, have integrated RJ into their criminal justice systems by adapting this approach in the settlement of disputes involving traffic accidents. In many cases, RJ helps create conditions that allow perpetrators and victims to speak directly and resolve their differences through mediation facilitated by a trained mediator. However, in Indonesia, this approach is still far from being implemented in the judicial system due to the absence of clear norms that support the application of RJ in traffic accidents resulting in death.¹⁹

For further illustration, the following table compares retributive justice in the Indonesian legal system and restorative justice in traffic accident cases resulting in death:

¹⁷ Irwanto, A., Prihartanto, A. N., & Mulya, T. H. (2023). Enforcement of Restorative Justice in Traffic Crime Cases Which Causes Death. *International Journal of Social Science And Human Research*, 6(03), 1454-1460

¹⁸ Kurnianingsih, M., & Pradana, A. B. (2024). Implementation of Restorative Justice in the Settlement of Traffic Cases with Minor Injury Victims in Wonogiri. *Law and Justice*, 9(2), 270-282

¹⁹ Focquaert, F., et al. (2024). Experiences, views, and attitudes of participants of a mediation dialogue group implemented within a restorative justice framework in the context of non-related traffic accidents in Belgium: a thematic analysis. *Criminal Justice Ethics*, 43(3), 259-284



Table 1: Comparison between Retributive Justice and Restorative Justice in Traffic Accident Cases Resulting in Death

| Aspect | Retributive Justice (Punitive) | Restorative Justice (Rehabilitative) |
|-----------------------------------|---|--|
| Focus | Punishment for the offender | Restoration of relationships between offender, victim, and community |
| Objective | To impose a penalty deemed appropriate for the crime | To repair harm caused by the offense and promote reconciliation |
| Process | Court trial, usually leading to imprisonment or fines | Mediation between victim and offender facilitated by a mediator |
| Outcome | Punishment that may or may not benefit the victim or society | Healing and restitution, addressing both the offender's and victim's needs |
| Effect on Social Relations | Often exacerbates social divide between the offender and victim | Strengthens social ties and promotes community involvement |

This table shows the profound differences between the two approaches. Retributive justice, which focuses more on punishment, often disregards the emotional or social impact felt by victims or perpetrators. Criminal sanctions do not always provide an effective resolution for victims and their families. In contrast, restorative justice focuses on restoring the relationship between the perpetrator and the victim, which can provide space for both parties to understand each other and heal the emotional wounds caused by the accident.

However, even though the concept of RJ has proven effective in many cases, its application in Indonesia is very limited. The ambiguity of existing norms in Indonesian law causes law enforcement officials to tend to choose criminal sanctions that are clearer and more structured, even though RJ can provide more sustainable solutions and deliver more comprehensive social justice. Therefore, to enable the application of RJ in fatal traffic accident cases, stronger legislative efforts are needed to clarify the norms and rules that support restorative justice-based settlement mechanisms.²⁰

In this context, it is important to raise awareness among law enforcement officials about the importance of integrating RJ into the Indonesian judicial system. RJ can not only help repair the relationship between the perpetrator and the victim, but also provide an opportunity to address the broader social impact of fatal accidents. In a study conducted by Kurnianingsih and Pradana (2024), they emphasized the important role of the police and prosecutors in facilitating RJ as an alternative resolution, although they also mentioned that the lack of clear regulations hinders its implementation.²¹

Overall, the ambiguity of norms in the Indonesian legal system regarding the application of restorative justice in fatal traffic accident cases is a significant obstacle. A more RJ-based resolution requires changes in existing legal norms, as well as a better understanding of the benefits of RJ in the context of resolving criminal cases. Therefore, further research and efforts should focus on how to

²⁰ Marpaung, Y. K., & Tanjung, A. S. (2024). The Implementation Of Prosecution Termination Based On Restorative Justice In Traffic Accident Cases Resulting In Death Due To Negligence At The Asahan District Prosecutor's Office. *International Journal of Economic, Technology and Social Sciences (Injects)*, 5(2), 256-266.

²¹ Rona, M., et al. (2020). Restorative justice in the settlement of traffic accident causing death toll according to the perspective of customary judiciary in Sanggau district, West Kalimantan. *Yustisia*, 9(1), 139-151

develop more specific regulations that support the application of RJ in cases of accidents involving death, as well as introducing RJ as an acceptable alternative resolution in the Indonesian judicial system.²²

Normative Conflict in the Application of Restorative Justice in Fatal Traffic Accident Cases

The application of restorative justice (RJ) in traffic accident cases resulting in death cannot be separated from the normative conflict that exists in the Indonesian legal system. There are two conflicting principles of justice, namely the principle of retributive justice and the principle of restorative justice. Retributive justice, which is dominant in the Indonesian criminal law system, focuses on imposing punishment commensurate with the crime committed. Meanwhile, restorative justice emphasizes the restoration of the relationship between the perpetrator and the victim, as well as providing the perpetrator with the opportunity to take social responsibility. In the context of fatal traffic accidents, there is tension between the need to impose what is considered a fitting punishment on the perpetrator and the desire to repair the social and emotional damage caused by the accident.²³

The Indonesian legal system, which focuses more on retributive justice, considers that perpetrators of traffic accidents that cause death must be punished as a form of retribution for their actions. These punishments often take the form of imprisonment or fines, which aim to have a deterrent effect on both the perpetrator and the community. On the other hand, restorative justice offers a more healing-based approach, emphasizing dialogue between the victim and the perpetrator. In practice, this approach places more emphasis on reconciliation and restoration of relationships, rather than punishment alone. Therefore, there is a conflict between these two principles of justice, especially in cases of accidents resulting in death, where the victims' families often demand harsh and appropriate punishment for the perpetrators.²⁴

In Indonesia, there is a clear tension between the demands of the public for retributive justice and the principles of restorative justice, which prioritize social restoration. For example, in cases of traffic accidents resulting in death, the families of victims generally feel that justice is only served if the perpetrator is severely punished. An approach that emphasizes dialogue and mediation between the perpetrator and the victim is often considered insufficient, or even unfair, by most people who want more tangible punishment. On the other hand, restorative justice offers the opportunity for more sustainable recovery, where perpetrators are given the opportunity to acknowledge their mistakes and try to repair the damage they have caused.²⁵

In the context of Indonesian law, Law No. 22 of 2009 concerning Road Traffic and Transportation prioritizes punishment and sanctions against perpetrators of traffic accidents. Meanwhile, restorative justice, which emphasizes the restoration of relationships, is not found as a principle regulated in this law. This creates a gap between the punishment demanded by society and the alternative solutions offered by restorative justice. When perpetrators of traffic accidents are punished with imprisonment, this may not always resolve deeper social problems, such as the emotional impact on victims or their families.

²² Ali, Q., Yaseen, M. R., & Khan, M. T. I. (2019). Road traffic fatalities and its determinants in high-income countries: a continent-wise comparison. *Environmental Science and Pollution Research*, 26(19), 19915-19929

²³ Irwanto, A., Prihartanto, A. N., & Mulya, T. H. (2023). Enforcement of Restorative Justice in Traffic Crime Cases Which Causes Death. *International Journal of Social Science And Human Research*, 6(03), 1454-1460

²⁴ Kurnianingsih, M., & Pradana, A. B. (2024). Implementation of Restorative Justice in the Settlement of Traffic Cases with Minor Injury Victims in Wonogiri. *Law and Justice*, 9(2), 270-282

²⁵ Focquaert, F., et al. (2024). Experiences, views, and attitudes of participants of a mediation dialogue group implemented within a restorative justice framework in the context of non-related traffic accidents in Belgium: a thematic analysis. *Criminal Justice Ethics*, 43(3), 259-284.



On the other hand, the application of restorative justice in the Indonesian legal system requires a paradigm shift, with more emphasis on solutions based on social justice and restoration, rather than punishment alone.²⁶

This tension is exacerbated by the fact that the application of restorative justice in traffic accident cases resulting in death requires a change in the existing legal perspective. In many cases, restorative justice is considered more suitable for resolving disputes that do not involve death or serious physical violence, such as in cases of minor accidents. However, when fatalities are involved, such as deaths resulting from accidents, the community and victims often do not see restorative justice as an effective mechanism for responding to the losses that have occurred. They prefer clear and direct punishment, which is considered a form of justice in accordance with the law.²⁷

However, despite the conflict between retributive justice and restorative justice in the Indonesian legal system, restorative justice has the potential to address various social problems caused by fatal traffic accidents. Therefore, it is important for the Indonesian legal system to accommodate both principles simultaneously in order to create a more complete and comprehensive judicial system. To that end, changes to existing legal norms must be made so that restorative justice can be applied in cases of traffic accidents resulting in death, without neglecting the rights of victims or the justice that should be given to the victims' families.²⁸

Restorative justice can be seen as a complement to retributive justice, where perpetrators still receive appropriate criminal sanctions, but on the other hand, they are also given the opportunity to make amends and take responsibility for their actions. Restorative justice can provide a more meaningful alternative resolution for victims, where they can feel a restoration of their relationship with the perpetrator, which in turn can help them in the process of emotional healing. Thus, despite the conflict between retributive justice and restorative justice, both principles can be integrated to achieve more sustainable and comprehensive justice in the settlement of traffic accident cases resulting in death.²⁹

CONCLUSIONS

The application of restorative justice (RJ) in traffic accident cases resulting in death faces various legal and normative challenges in Indonesia. Legal vacuums and ambiguous norms regarding the application of RJ in this context are major obstacles to its implementation. The Indonesian legal system, which tends to prioritize retributive justice, places criminal punishment as the main solution in resolving traffic accident cases resulting in death. However, the application of RJ, which prioritizes relationship restoration and reconciliation, can be an alternative that is more in line with the social and emotional needs of victims and perpetrators.

The conflict between retributive justice and restorative justice reveals tensions within the Indonesian judicial system. Although RJ offers a more humanistic solution based on social justice, the desire of the community and victims' families to see the perpetrators of accidents punished severely has led to resistance to the application of RJ in fatal accident cases. Therefore, to optimize the application of

²⁶ Marpaung, Y. K., & Tanjung, A. S. (2024). The Implementation Of Prosecution Termination Based On Restorative Justice In Traffic Accident Cases Resulting In Death Due To Negligence At The Asahan District Prosecutor's Office. *International Journal of Economic, Technology and Social Sciences (Injects)*, 5(2), 256-266

²⁷ Rona, M., et al. (2020). Restorative justice in the settlement of traffic accident causing death toll according to the perspective of customary judiciary in Sanggau district, West Kalimantan. *Yustisia*, 9(1), 139-151

²⁸ Ali, Q., Yaseen, M. R., & Khan, M. T. I. (2019). Road traffic fatalities and its determinants in high-income countries: a continent-wise comparison. *Environmental Science and Pollution Research*, 26(19), 19915-19929

²⁹ Dona, F., et al. (2025). Implementing Restorative Justice in Criminal Case Resolution: A Socio-Legal Research. *Al-Ahkam: Jurnal Ilmu Syari'ah dan Hukum*, 10(1), 20-38



RJ in fatal traffic accident cases, it is necessary to make changes to existing regulations and increase understanding of the importance of RJ as part of the criminal justice system.

Legal reforms that accommodate RJ as an alternative dispute resolution mechanism can help create more sustainable justice by balancing the punishment of perpetrators and the restoration of relationships between perpetrators and victims. In this case, the integration of RJ into the Indonesian legal system must be carried out gradually by involving all stakeholders, including legislators, law enforcement officials, and the wider community.

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